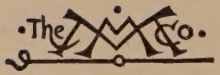
# ARGUMENTATION AND DEBATE

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# ARGUMENTATION AND DEBATE

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## WISDOM

Viscount Morley, Chancellor of Victoria University, at the recent opening of the John Morley Chemical Laboratory given to that institution by Mr. Carnegie, said that he sometimes thought he would like to set an examination on the subject, "What is an Educated Person?" For himself, he said, he would "put at the very top the qualification that any educated man or woman should know what is evidence, should know when a thing is proved and when it is not proved." Moreover, added the eminent English literary and political critic, "The educated person should know how many interpretations the same verbal proposition would fairly bear, what weight was to be attached to rival authorities." This is an extremely interesting dictum, one that will especially interest the scientist with his loyalty to the scientific and inductive method, and the lawyer with his traditions of careful weighing of evidence.

—Editorial, *The Boston Herald.*

# PREFACE

This volume is the result of a complete re-writing of *Argumentation and Debate* as published by Laycock and Scales in 1904. It has seemed to me that the original text contained the *clearest* and *most orderly* explanation of the subject ever published. It was felt, however, that this text, in common with all other texts in argumentation, was not sufficiently *thorough* for college and university classes. A text which would go more deeply into the methods and precepts which argumentation has borrowed from logic, law, rhetoric, and oratory, has been greatly needed for some time. This volume is the result of an attempt to meet that need. How well this purpose has been accomplished you who read and use this book must judge.

This book has been prepared in the hope that it will serve as a text to be carefully studied, considered, and discussed by college and university classes in academic courses in argumentation and debate. Within this field the aim has been the broadest possible one. The purpose of the particular classes for which it has been written should be *thoroughgoing intelligence in regard to argumentation and debate, not merely platform efficiency* in this field. Platform efficiency is not to be decried, but it should come after and be based upon thoroughgoing intelligence, and should not, in academic class rooms, be made an independent end to the exclusion of this broader and more fundamental educational aim. Such being its purpose, this volume, is, of course, submitted as equally useful in classes working either in oral or in written argumentation or in both. The fundamental principles of argumentation are identical in both forms. Certain special adaptations for oral presentation are particularly considered in Part III, Debate.

In regard to the content and method of certain chapters, a word of explanation may be due. In the first place it was decided that considerable material showing the relation of argumentation to other fields, particularly to those of law and logic, should be included in this volume. I have long desired that my classes should have more complete and more authoritative explanations of our relations with these fields than I have been able to find in previous text-books on argumentation, and I know that I am not alone in this. Most teachers of argumentation and debate probably desire that their students shall have backgrounds and foundations in the subjects comparable to those furnished students in other departments of the curriculum. Such backgrounds and foundations will make it possible for the student of argumentation to relate this work intelligently to his work in logic, law, English composition, etc. And particularly they will enable him to take the results of this work with him to his work in all other courses and into his thinking and acting in everyday life. Having decided to include material of this sort (such as is particularly found in the chapters dealing with Evidence, Kinds of Arguments, and Fallacies), the question arose as to the manner in which such material should be introduced. It was decided that the use of many *direct quotations* from *recognized authorities* in these several fields would be the most frank, most accurate, most authoritative, and on the whole most satisfactory method. It is for this reason that the readers will find an unusual, though under the circumstances I trust not an undue, amount of direct quotation from other writers, in this text.

Throughout the text an effort has been made to *systematize* and *organize* the material to be presented in such a manner that from the table of contents to the individual paragraphs of each and every chapter, the relation of one part to every other part would be made clear. It is recognized that the difference in conditions under which instruction in argumentation is given in different institutions, will probably make

it necessary for some teachers to omit some portions of this text. If particular classes wish to skip certain sections (such as a part or the whole of the chapters on the Kinds of Arguments, or Fallacies) this may very easily be done. A brief summary of the section omitted, and a statement of its relation to the other parts of the book may very easily be made by the teacher. It has been felt desirable that as far as the limits of a single volume permitted, a *complete* statement of the doctrines and principles that may be included within the field of argumentation should be given, but given in such a manner that individual teachers may make such adaptations as the time allowed or the previous preparation of the students may seem to make advisable.

A glance at the pages of this book will make it evident that I am indebted to a great many writers in the various fields with which argumentation is concerned. I have tried to give accurate credit and documentation in every instance in which I have consciously drawn from the work of those who have gone before me. A complete bibliography of the publications to which reference is made in this text is published in the appendix, and here I wish to express my thanks and obligations to all the writers whose works are listed in that place.

In addition I wish to express my appreciation of the helpful suggestions and criticism which I have received while preparing this manuscript from Professors J. A. Winans of Cornell University, J. S. Gaylord of Winona Normal School, W. C. Shaw of Dartmouth College, C. H. Woolbert, formerly of the University of Illinois, Dean H. W. Ballantine of the University of Illinois Law School, and Dr. H. M. Kallen of the Department of Philosophy of the University of Wisconsin.

J. M. O'N.

The University of Wisconsin,
*May*, 1917.

# PREFACE

(*To the original book by Laycock and Scales*)

The growing recognition of the importance of Argumentation as a separate subject of study in American colleges, and the increasing emphasis which is put upon the necessity for a proper method of presenting it, are probably due to the appreciation of two facts. In the first place, it is coming to be acknowledged that Argumentation is a peculiar art, distinct from all others. Many of its principles are derived from the fundamental elements of other arts and sciences. Formal logic, rhetoric, oratory, and the rules of court procedure all contribute to it of their precepts; but though it is thus composite in nature, it is essentially a unified art, demanding investigation for its own sake. Furthermore, it is realized that argumentative skill does not belong exclusively to any one profession or class of men. To know how to argue is necessary not alone for the lawyer or the publicist, but equally for the preacher, the scientist, the business man, or, indeed, for any one who may wish to influence the opinions or actions of his fellows; it is a power which every educated man should have an opportunity to acquire. With these requisites in mind, the authors have made it their purpose, taking these component elements from their various sources, to develop from them a body of principles, by the study and practice of which the student may gain, so far as possible, the ability to create or control the beliefs of others.

Any one seeking by argumentation to influence the thoughts or acts of another must employ either the written symbol or the spoken word. In this day of the newspaper, the magazine, and the essay much of the most potent argumentation comes from the pen or the public press, so that

the needs of the hour call for training in the written form. On the other hand, there is a large class of students, who are in search of training for the court room, the deliberative assembly, or the platform. Consequently, the requisites of both these kinds of presentation must be recognized in any treatment of the art as a whole. Accordingly, with a view to these requirements, the following plan has been adopted in presenting the subject. The work is divided into two parts: the first contains a discussion of the general principles of argumentation, applicable alike to written and to spoken discourse; the second part is devoted to the setting forth of certain additional precepts peculiar to oral debate. Finally, realizing that a thorough mastery of the subject can come only from continued practice, the authors have given, in the Appendix, a brief outline of the methods of instruction which they have found to be most serviceable, and have ventured a few suggestions which may prove helpful in supplementing the study of the text.

C. L.
R. L. S.

HANOVER, N. H.,
*May* 30, 1904.

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# ARGUMENTATION AND DEBATE

# ARGUMENTATION AND DEBATE

## PART I. INTRODUCTORY

### CHAPTER 1

#### DEFINITIONS AND RELATIONS

#### OUTLINE

A. Argumentation defined.
B. Fundamental importance.
C. Universal and indispensable.
D. Twofold nature.
E. Conviction alone.
F. Persuasion alone.
G. Four processes:
    1. Invention.
    2. Selection.
    3. Arrangement.
    4. Presentation.
H. No distinct dividing line.
I. Debate defined.
J. Argumentation and logic.
K. Argumentation and the forms of composition.
L. Sources of argumentation:
    1. Law.
    2. Logic.
    3. Rhetoric.
    4. Oratory.

**A. Argumentation defined.** Argumentation is the art of influencing others, through the medium of reasoned discourse, to believe or act as we wish them to believe or act.

**B. Fundamental importance.** Belief is an element which is most truly fundamental in the ability of man to grow

and in his power to create. It is the *beliefs* of the individual about religion, about politics, and about society, which determine his attitude toward men and events, and which govern his ACTIONS in the affairs of life. Moreover, a man's belief is rarely, if ever, entirely original. His creed is wrought out of the ideas of priests and prophets; his political principles are made up of materials taken from economists and statesmen; his social tendencies are influenced by the theories of philosophers and reformers; and in all his conceptions, far more than he can realize, he is influenced by the opinions of his daily companions. So that the revelation of truth and the establishment of justice in human affairs, must depend largely upon the power of those who stand at any time for what is true and just, to control the convictions of their fellows and so to make them see the best and seek after it. What, then, of the art whose work it is to influence others to believe or to act? Must it not be respected and cultivated as the embodiment of much that is worthiest in human thought and action?

**C. Universal and indispensable.** But argumentation is worthy of respect and study, not simply because of its fundamental importance, but also because it is so nearly universal and indispensable. We find its uses made manifest in almost every branch of affairs. In the legislative assembly the struggles of parties are settled and policies of government are worked out by argument; in the courtroom it is argument which advances the conflicting claims of individuals, protects their rights and privileges, and guides the regulation of the duties of the citizen to the State; in faculty meetings, fraternity meetings, mass meetings, men must argue in order to weigh one course of action against another; in the meeting room of the directors of a corporation, it is by argument that its members come to decisions as to what is honorable and what is expedient; and, wherever in the home or on the street men differ about their private concerns, they argue to adjust their differences and to find the truth. Indeed,

wherever active-minded men with opinions meet, there is sure to be argumentation.

**D. Twofold nature.** It has long been the custom of writers on argumentation to speak of its twofold nature—its relation to *reason* on the one hand and to *emotion* on the other. The subject has been divided into considerations of principles that have to do with reason—principles of conviction, and those that have to do with emotion—principles of persuasion. Conviction has been defined as an appeal to the intellect and persuasion as an appeal to the will.

Now modern psychologists are telling us that this old division is not an essential or fundamental one, that in ultimate psychological analysis conviction and persuasion are the same, that these terms represent properly only a difference of emphasis in methods of approach to the whole personality, that the real appeal is to the person as a whole, and that psychologically there is no difference between winning assent to a thesis dealing with an unemotional matter of fact, and winning assent to a proposition dealing with contentious policies and deep prejudices.

These developments of modern psychology give rise to the question, "Shall students of argumentation now drop this old division and pay no further attention to long recognized principles of conviction and persuasion?" The answer is, "No"; and in this answer the psychologists concur.

For practical purposes it is well to use this old distinction to differentiate *the types of cases* or *types of approach* in cases which have to do, first, mainly with gaining the assent of the whole personality to such a proposition as, "A straight line is the shortest distance between two points," and, second, mainly with such propositions as, "Resolved: that National Prohibition by Federal Amendment is desirable." We have to deal in argumentation with all sorts of propositions ranging from those to be carried, if at all, by clear and sound reason based on facts—mere questions of fact in which human likes and dislikes are not enlisted, to propositions of policy

which touch the prejudices and passions very deeply. Between these two extremes we find all grades of mixture.

It is thought worth while for practical purposes to continue to call work on the former a work of conviction, and work on the latter a work of persuasion, to label an appeal to the "whole personality" which calls principally for a consideration of the weight of evidence and the strength of inference as an appeal to the intellect or "conviction," and to label an appeal to the "whole personality" which calls for a consideration of personal likes and dislikes, desires and prejudices—of the duties, virtues, or happiness of oneself or others—to label this sort of approach an appeal to emotions or "persuasion." And when we speak of argumentation which is aimed at *belief* we mean mere acceptance—intellectual agreement. When we speak of argumentation which aims at *action* we mean gross action, behavior, conduct—not simply mental action which is, of course, present in the acceptance of belief or intellectual assent.

Successful argumentation practically always deals with both aspects. Almost all important propositions on which men differ are such that both intellectual and emotional considerations have to be met. Beliefs are used as a basis for action.

Winans[1] discusses the distinction between conviction and persuasion in the following excellent paragraphs:

"It is convenient to use the word *persuasion* when we come to treat of influencing conduct. The word is not without difficulties, since usage varies; yet there seems to be no good substitute. A review of the authorities justifies us in accepting tentatively Whateley's [2] definition of the word: 'Persuasion, properly so called, i. e., the art of influencing the will.' To influence the will is identical with influencing the conduct, and includes inducing or checking single acts or affecting a prolonged course of conduct; but, as we shall use the term persuasion, it is not limited to inducing physical acts, but

[1] Winans, pp. 249–250. [2] Page 128.

includes changing the mental attitude by removing prejudice, bringing about a fair-minded attitude toward a person, a willingness to consider a proposition, or a desire to accept it. The term is broad enough to include conviction, but we shall for convenience use the latter term to designate the process of 'Bringing any one to recognize the truth of what he has not before accepted. . . .'[1]

"Those to whom the term persuasion means inducing to believe usually distinguish it from *conviction* by saying that to persuade is to secure belief by rather emotional methods, while to convince is to use logic and reasoning. So *The Standard Dictionary* says *persuade* means 'to induce to believe willingly.' Here we have, probably, a hint of why the words *convince* and *persuade* have been confused. To induce a man to believe it is often necessary to make him willing to consider the proposition at all, to remove prejudice and induce a willingness to believe. Now this is a matter of emotional attitude, and changing emotional attitude is included in the proper work of persuasion. In this position I have the support of Baker's *Principles of Argumentation*, in which it is said (p. 7): 'Conviction aims only to produce agreement between writer and reader; persuasion aims to prepare the way for the process of conviction and to produce action as the result of conviction.'"

**E. Conviction alone.** By the force of reasoning, by the use of simple fact and logic, a man may make others see that this or that statement is justified, that this or that argument is logical, or even that the whole idea he is contending for is true; but it does not follow that he has made them accept as guides of conduct the propositions he advances. In order to make them fully accept his views of the matter or agree to act as he wishes, the arguer must also make them desire to carry out his thesis by affecting their emotions.

"Nothing would seem to be a plainer lesson of experience than that we mortals often leave undone those things we

[1] New English Dictionary.

know we ought to do, and do those things we know we ought not to do; yet this truth is constantly ignored by speakers, and with bad results. This truth is proverbial: 'The spirit is willing, but the flesh is weak;' *Video meliora proboque; deteriora sequor.* Certain knowledge that lack of exercise is ruining one's health does not necessarily drive one out of doors; yet one does not for a moment believe that one's work or pleasure is worth the cost. There must be, then, more than intellectual acceptance of truth to secure action.

"It may seem absurd to insist upon such a truism as that men do not always act in accordance with judgment; but I write out of memory of class-room struggles. When regarding a cold, barren, tactless speech I have asked, 'What elements of persuasion does this contain?' I have received the answer, 'Does it not prove my claim? What more is needed?' Apparently I have appeared a shocking cynic when I have suggested that men are not always governed by pure reason."[1]

The weakness of any argumentative effort which consists only of conviction, i. e., an appeal to the reason, is this: that, though the person addressed may *understand*, he may not really be in any way *affected* because the impulses which give force to his inmost convictions, and which stimulate him to action, may not have been reached. Of course, in those cases in which there is no persuasion, which are in nature cases for pure conviction, as demonstrations in geometry, we must not look for anything else. What has been said refers to the weakness of relying on pure conviction in cases that have persuasive possibilities—that seek to affect human conduct.

**F. Persuasion alone.** The results of an almost wholly emotional appeal are usually no more satisfactory than those of a simple intellectual demonstration. It is seldom an advantage for a speaker to stimulate the moving impulses of his audience unless he can hold them in control; for he may find he has set free a force that is as likely to act to his detriment

[1] Winans, p. 251.

as to his benefit. Then, too, he will probably find that the effect of his appeal is but fleeting and unreliable; he will find his hearers are stirred only to shallow and passing excitement, and that calm deliberation will reveal the unsubstantial nature of the argument and so leave their permanent beliefs unaffected. The proportion of emphasis on conviction and persuasion as these terms are here used, will, in any particular case, depend, of course, upon the circumstances; in a college debate very often little persuasion is sufficient; the campaign orator uses a great deal. Both, however, are necessary in all effective argumentation which aims at influencing human behavior.

**G. Four processes.** Whatever the relative importance of conviction and persuasion, there are, in every piece of argumentative work four indispensable processes: (1) to find out just what you want to establish; (2) to gather the materials needed for the proofs; (3) to arrange these materials; (4) to present them in good rhetorical or oratorical form. For convenience we may name these four processes (covered in Part II of this book) respectively (1) Invention, (2) Selection, (3) Arrangement, and (4) Presentation.

**1. Invention** consists in determining upon those ideas in the truth of which the speaker or writer wishes to make his hearers or readers believe. No man can hope to influence the beliefs of others, unless he first has in his own mind (a) an exact idea of the beliefs he wishes to inculcate, (b) a clear conception of the points of fact he must establish to convince his readers or hearers. Under this head we study *propositions*, *burden of proof*, and *issues*.

**2. Selection** consists in choosing from all the sources of human knowledge those facts and inferences that will serve to establish the ideas determined upon. Of all the evidence and arguments that may be found on any question, the arguer can use and wishes to use a comparatively small amount. He must sort this small amount out of the mass of available material with the utmost care. His success must depend in

great degree upon his tact and good judgment in choosing those materials that will appeal strongly to the minds and hearts of those he seeks to influence. Here we take up *gathering material, evidence, kinds of arguments,* and *fallacies.*

**3. Arrangement** consists in organizing these selected materials in such a way as to secure the maximum effect upon the beliefs or actions of the persons addressed. However valuable the facts or appeals chosen for use may be, their efficiency will depend largely upon the *plan* in accordance with which they are utilized. They cannot be presented clearly or forcibly unless they are brought into proper relations with each other and with the whole proof. Under arrangement we consider *general principles of arrangement* and *briefing and outlining.*

**4. Presentation** consists in putting the materials into good rhetorical or oratorical form, in effectively communicating their force to others by means of a good use of thought and language. To convey to another the ideas invented, selected, and arranged, demands a many-sided skill. In written argument it calls for the application of the principles of rhetoric; in spoken argument it calls for speaking ability and skill in persuasion; in debate it calls for the peculiar powers of resource and adaptability which the circumstances of this form of controversy demand. Here we study *persuasion,* the *introduction,* the *discussion,* the *conclusion,* and *refutation.*

**H. No distinct dividing line.** Of course there are no distinct lines of demarcation between these various processes: in any piece of argumentation the progress is continuous, from the first conception of the ideas to be considered to the final presentation. Any separation of it into parts must be more or less arbitrary. It is attempted in this book only because it may help in presenting some of the fundamental principles with greater clearness.

**I. Debate defined.** Debate is a direct oral argumentative contest between two opposing sides, on a definite ques-

tion, at a definite time. It is a specialized form of argumentation and requires special knowledge and skill not required in other forms of argument. A good argumentative essayist is not necessarily a good debater. A man who can write and memorize and deliver a good argumentative address is not necessarily a good debater. The latter must have all the skill of the former, and in addition he must know how to conduct his case on the platform. He must know the rules of the game, and must be able to meet the many situations in offense and defense as they arise in the contest. In Part III of this volume, which is devoted to debate, we consider the *nature of debate*, the *main speeches*, the *rebuttal speeches*, and *delivery*.

Before undertaking a detailed study of Argumentation it will be well to have clearly in mind the relation of argumentation, not only to debate, but also to other subjects, especially logic, and the forms of composition.

**J. Argumentation and logic.** Argumentation has been defined as the art of influencing others, through the medium of reasoned discourse, to believe or to act as we wish them to believe or act. "Logic may be defined as the science of thought, or as the science which investigates the process of thinking." [1] "Logic is sufficiently defined for our purposes if we say that it is the *science of proof or evidence*." [2] "Logic may be most briefly defined as the Science of Reasoning. It is more commonly defined, however, as the Science of the Laws of Thought, and some logicians think it is the Science of the Formal, or of the Necessary Laws of Thought." [3] "Much discussion of a somewhat trifling character has arisen upon the question whether Logic should be considered a science only, an art only, or both at the same time . . . but it seems substantially correct and sufficient to say, that logic is a science in so far as it merely investigates the necessary principles and forms of thought, and thus teaches us to understand in what correct thinking consists; but that it becomes an art when it is occupied in framing rules to assist

[1] Creighton, p. 1. [2] Bode, p. 4. [3] Jevons, p. 1.

persons in detecting false reasoning. *A science teaches us to know and an art to do,* and all the more perfect sciences lead to the creation of corresponding useful arts." [1] There is then a distinct difference between argumentation and logic as the latter is usually defined. It is near the truth to say that *logic is the science of which argumentation is the corresponding art.* Logic teaches us to know, argumentation to do. Logic helps us to understand the laws of thought, argumentation helps us to make other people agree with what we think.

**K. Argumentation and the forms of composition.** Argumentation is usually classified as one of the four forms of composition—narration, description, exposition, argumentation. It is probably useful from the standpoint of the teaching of English composition to have this label for a composition that seeks to prove a definite proposition, but it is not accurate to conceive of argumentation as simply one of the four forms of composition. The art of argumentation, of influencing the beliefs and actions of others by reasoned discourse, rests upon much beside the principles of composition. Of the four processes treated in this book two only are concerned with these principles, and these two are concerned with much else. The man who would do satisfactory work in argumentation must be skilled in description, narration, and exposition; and he must have in addition a knowledge of logic, skill in gathering and testing evidence, and in brief drawing, a knowledge of various methods of procedure (for the most part borrowed from the law), along with skill in using them, and, in most cases, ability in public speaking. It is probably true, moreover, that most descriptive, narrative, and expository writing is designed for the eye and is to be read, and not heard by the ear. The opposite is true in regard to argumentation. Practically all great arguments are speeches, and even when argumentation is designed for print rather than oral delivery, as in controversial articles, editorials, etc., the best effect is gained by writing as if for

[1] Jevons, p. 5.

an *audience* with the hearer and the opponent always in mind. What might be called a "speech style" or "oral style" is always preferable in argumentation and is practically always used in good argumentation. So the worker in argumentation, whether oral or written, should be well versed in all that goes to make effective speaking. In the words of Professor Alden, "These, then, are the problems we have to consider:—the use of the universal laws of reasoning, the development of the habit of analysis and of unprejudiced methods of investigation, the secret of clear and rapid expression of intellectual processes, and the art of adapting one's material to his hearers so as to win their favor and affect their conduct. Clearly the art that involves all this is of no mean order." [1] Clearly, also, an art that involves all this is more than a subdivision of the art of composition.

**L. Sources of argumentation.** The following table shows approximately the sources of the rules, principles, doctrines, methods, devices, etc., which taken together make up the subject-matter of a thorough course in argumentation. Notice that some of the topics may be traced back to more than one of the four great *ancestors of argumentation:* Law, Logic, Rhetoric or English Composition, and Oratory or Public Speaking.

| 1. Law | 2. Logic | 3. Rhetoric | 4. Oratory |
|---|---|---|---|
| Burden of Proof | Propositions | Kinds of Arguments | Voice |
| Presumptions | Presumptions | General Principles | Platform |
| Issues | Issues | of Composition: | skill |
| Evidence | Evidence | Unity, | Technique of |
| Briefing | Kinds of Arguments | Coherence, | Debate |
| Refutation | Fallacies | Emphasis, | Oral Style |
| Procedure | Refutation | Outlining | Persuasion |
| | | Sentence Structure | |
| | | Refutation | |
| | | Persuasion | |

[1] *Art of Debate*, p. 9.

# PART II. ARGUMENTATION

## SECTION A. INVENTION

## CHAPTER 2

### THE PROPOSITION

### OUTLINE

#### I. The Theory of Propositions

A. Subjects must be propositions.
B. Definition.
C. Necessity of having a proposition in all sorts of situations.
    1. Club.
    2. Court of law.
    3. Assembly.
    4. Public discussions.
D. Advantage to hearer and speaker.
E. Not always expressed.
F. Classification.
    1. Fact.
    2. Policy.

#### II. Formulating the Proposition

A. The problem of formulating the proposition.
B. The process of formulating the proposition.
    1. Finding the real question.
        a. Study origin.
        b. Analyze ideas.
    2. Formulating the tentative proposition.
    3. Testing this proposition.
        a. Definitions.
        b. Summary of definition.
    4. Comparing and adjusting.
C. These steps not to be taken mechanically.

III. Characteristics of Good Propositions for Debate

A. A list of desirable characteristics:

1. Assertion.
2. Single.
3. Unambiguous.
4. Unprejudiced.
5. As concrete and specific as possible.
6. Burden of proof on affirmative.
7. As brief and simple as possible.
8. Debatable.
9. Interesting.

## I. The Theory of Propositions

**A. Subjects for argumentation must be propositions.** In this important particular, argumentation differs, in addition to the things mentioned in the last chapter, from any of the other kinds of rhetorical composition. In any of the three other forms, we may have for our subject a simple word or phrase, denoting merely some general concept existing in the mind, which we wish to portray for our reader. If we wish to write a narrative, we may choose some such subject as "The Battle of Manila," or "An Ascent of the Jungfrau." For an exposition we might well select such a topic as "The New York Clearing House," or "Forest Fires; Their Cause and Their Prevention,"—these phrases would make excellent titles for compositions of this nature; but in argumentation such terms would be wholly valueless.

**To take an example:** suppose a student desiring to write an expository discourse should determine on the title, "The Tariff Bill of 1913." This would be a worthy subject; he could in his composition, treat briefly of the history of tariff legislation, explain the economic principles involved, give the particulars in which this bill differs from earlier bills, especially its immediate predecessor, tell what its advocates and opponents claimed as to its probable effect, and perhaps discuss the method of its administration, thus making of

the whole an exposition of the nature and workings of this bill. But as the subject of an argumentative effort this term would be useless, for it does not suggest anything definite to be proved or disproved; it does not state any belief which the writer wishes his reader to accept. In an argument on this subject the author might discuss any one of a dozen ideas or beliefs; he might argue for or against this particular bill; that a high protective tariff would be a benefit to the people of the United States; that tariff for revenue only is unwise. If his argument is to be effective, he must determine in advance what idea or belief he is to uphold or attack. The subject of his argument will be a statement of the particular idea or belief with which he is concerned. But a belief or an opinion cannot be accurately expressed in a word or a phrase. It demands a complete statement, a full sentence. To use more technical language, we cannot argue *a term;* we must have *a proposition.*

**B. Definitions.** "A term is so called because it forms one end (Latin *terminus*) of a proposition, and strictly speaking it is a term only so long as it stands in the proposition. But we commonly speak of a term or a name meaning any noun, substantive or adjective, or any combination of words denoting an object of thought, whether that be . . . . an individual thing, a group of things, a quality of things, or a group of qualities." [1] "Any word or group of words which serves to point out any imaginable subject of discourse is looked upon as a name or term." [2] "A complete assertion or statement consists of two terms and a copula, and when then expressed it forms a proposition." [3] "A proposition is the expression in words of an act of judgment." [4] "A judgment is a mental assertion of some thing as true or untrue, while a proposition is the expression of a judgment in words. A proposition therefore is a sentence." [5]

[1] Jevons, p. 17.
[2] Bode, p. 7.
[3] Jevons, p. 16.
[4] Creighton, p. 78.
[5] Bode, p. 52.

**To illustrate:** "The Single Tax," "Co-education," "Mt. Washington," "The Relation of Church and State," are all terms. These expressions might well serve as the subjects of narrations, descriptions, or expositions. No one of them could serve as the basis of an argument.[1] Before we can argue we must have a judgment, an opinon, a belief, expressed in words —that is a proposition. "Co-education should be abolished at X (or adopted at Y)," "The Single Tax is preferable to the general property tax," are propositions.

**C. The necessity of having a proposition in all sorts of situations** in which people argue should be kept carefully in mind.

**1. In a club** there was once assigned as the topic of an evening's debate, "William Pitt's Place in English History." A few of the disputants spoke of his parliamentary abilities, of his power as an orator and political leader; others gave their attention to a consideration of his statesmanship, commending his foreign policy or criticising his selfishness and unscrupulousness; others commented on his personality and his private life; and so, each speaker looked at the subject from his own point of view, and no one endeavored to prove or disprove any particular proposition. The discussion was in many ways interesting, but as a debate the evening's work was a failure; no one had been induced to accept any definite belief about the subject, and no conclusion had been established. In order to turn the discussion into a debate, the subject should have taken some such form as: Resolved, that William Pitt was the greatest parliamentary leader of the eighteenth century; or, William Pitt's conduct of Irish affairs was detrimental to the interests of the Irish people. The disputants made the mistake of trying to argue a term.

**2. In a court of law** we find a system in sharp contrast to

[1] Of course we can argue about *the meaning of a term.* We can express our belief as to what the term "The Single Tax" means, and argue that proposition.

the method of this historical club. Here it is necessary that the deliberations accomplish definite results. There must be no waste of time or energy, and the end of it all must be a settlement of the question presented for consideration. With these purposes in mind, the court of law demands that whenever a question is brought before it, "pleadings" be made and that these pleadings "shall set forth with certainty and with truth the matters of fact or of law, the truth or falsity of which must be decided to decide the case." In other words, the court demands that any man who would argue before it must, before he begins his demonstration, make a clear and unmistakable proposition, stating the things that he intends to prove true or false.

**3. In a deliberative assembly,** such as the house of representatives, the proposition would be found expressed in the form of some bill or resolution. In board meetings, faculty meetings, society meetings, mass meetings, etc., the proposition usually exists in the form of a motion from the floor. The presiding officer should see to it that a complete motion covering the question in hand be phrased and presented to the assembly, and that all discussion be confined to the *particular proposition* before the house.

**4. In general public discussions** a speaker should always have a definite proposition for each and every speech that he makes. This is well brought out by Professor Foster in the following paragraph:

"Every political campaign shows the need of definite propositions for debate. In Maine, in the fall of 1906, some of the speakers had no definite proposition, but launched with vehemence upon the topic of the Prohibitory Law. Stripped of all the confusing verbiage, invective, and humor, some of the speeches of the Democrats could be reduced to the contention, 'Prohibition does not prohibit'; and some of the speeches of the Republicans could be reduced to the contention, 'Temperance is a great virtue.' As these speeches were not concerned with debatable issues, there

was no debate. Argumentation demands a complete proposition." [1]

**D. Advantage to hearer and speaker.** The making of a proposition is of great advantage to the reader or hearer in enabling him *to understand the discussion* and get some real fruit from it. But it is no less an advantage to the writer or speaker. In the first place, if he does not know the exact proposition at issue, he is almost sure to waste time and effort, and to confuse his audience, in arguing about matters that are wholly outside the real question, and in proving things that are "beside the point." Then again, he must know the proposition in order to understand the position taken by his opponent, and so be able to refute him. The proposition is simply a statement of the position which the writer or speaker must establish or overthrow, and he cannot expect to be successful, either in positive proof or in refutation, unless he understands just what is the work necessary for him to do.

**E. Propositions are not always expressed.** While the proposition should *always be phrased* by the writer or speaker before he prepares his argument, it may be expressed or not as the circumstances seem to require. Sometimes it may be advisable not to state the proposition at the outset. This is often true when one is preparing to address a "hostile" audience or to write for a circle of readers whose present prejudices and beliefs are known to be opposed to the writer's position. In such a case it is well to use *as a title* a term (State wide prohibition) or the question form ("Is state wide prohibition advisable?") and disclose your position only after you have carefully prepared the way. For an oral debate the proposition should always be expressed, and in the form of a resolution: "Resolved: that state wide prohibition should be adopted in Wisconsin."

**F. Classifications of propositions** may be drawn up in many ways. Hyslop [2] gives six main divisions and nineteen

[1] Foster, p. 3.

[2] Page 121.

subdivisions. But a consideration of the classifications made in the science of logic would not have great practical value to a student of the art of argumentation. Some writers [1] in the latter field have, however, classified propositions as (1) propositions of *fact* and (2) propositions of *policy*. A proposition of policy deals with the question, "Ought this to be done?" A proposition of fact deals with the question, "Is this true?" A proposition of fact aims at belief, a proposition of policy aims at action. Therefore unmixed questions of fact, as propositions in geometry, are settled largely by impersonal convictions; questions of policy tend more and more to be matters for persuasion mainly as we get further from fact towards matter of mere personal likes and dislikes. In argumentation we may try to influence others to belief or act. Usually we try to do both. Most actions are based on beliefs and most beliefs influence actions. By establishing a certain fact or certain facts to the satisfaction of a given audience (that is by both convincing and persuading) we influence them to act as we desire. But since most arguments of policy rest upon questions of fact, since many questions can be so phrased as to fit either type without altering materially the nature of the case, and since the work to be done in finding, phrasing, supporting, or attacking, is practically the same for both kinds of propositions, it is hardly worth while to try to make much of this classification. It is wise, however, to decide, among other things, whether we are arguing facts (as such) or policies, before planning our argument. A student should, moreover, consider this in connection with choosing propositions for contest debating;[2] and in the affairs of real life we should avoid trying to settle by discussion questions of fact that should be *investigated* rather than *argued*.

[1] See Pattee, pp. 20–22, and Gardiner, pp. 12–26.

[2] See post, characteristics of good propositions (debatable), p. 30.

## II. Formulating the Proposition

So far we have been considering the nature of propositions in general and the necessity of having a proposition in order to have an argument. We now turn to the practical consideration of how to formulate the particular proposition we need from the mass of ideas to be found in any general field.

**A. The problem of formulating the proposition** when one is not definitely formulated for us, is an exceedingly important and often very difficult task. *Stephen on Pleading* [1] opens with this significant sentence: "In the course of administering justice between litigating parties, there are two successive objects,—to ascertain the subject for decision, and to decide." In practicing general argumentation under any and all circumstances we should keep in mind these "*two successive* objects." We should agree on what is to be decided *before* we proceed to decide it. We should follow the instructive example of the courts in fixing on *the* proposition to be decided, before we get confused by, and confuse, the evidence and argument available in the general field of the discussion. This is as true in arguments on politics, literature, and religion around the fire or at the dinner table, as of other discussions in legislature or courtroom. Let us first analyze our differences as a distinct step, before advancing to attack or defend. If this is done much argument will be saved. Agreements will come with understanding. It is not always easy to determine just what is the question really in issue, but it is easier before the argument starts than after. It may be obscured by the words of the discussion; it may become confused with other kindred but different questions; it may be separated with difficulty from the general problem that embraces it. Then again it is often difficult to put the question into words after it is found. Looseness in expression, ambiguity, the failure to know the true acceptations of the words in the proposition, are mistakes fruitful in possibil-

[1] Williston's edition, p. 1.

ities of serious error. The writer must know how to find out what it is he wants to prove and how to express himself in such a way that there can be no question as to his exact meaning.

**B. The process of formulating the proposition naturally divides itself into four steps:** (1) Finding out what is the *real question*, i. e., the facts and ideas, the truth or falsity of which must be decided to decide the question. (2) Formulating the question *in words*. After the facts in issue have been determined, they must be tentatively expressed in the form of a complete statement. (3) Testing this statement by a *definition* of its terms to find out just what it means as it stands. (4) *Comparing* the meaning of the statement so expressed with the meaning of the real question. If the statement thus formulated does not express just what is intended, it must be modified until it does. Whatever the circumstances, these four steps, though they are *usually so intermingled as not to seem like separate operations*, will always be helpful in finding or testing the true proposition.

**1. Finding the real question.** The student starting out in his search after the proposition will usually find that it exists originally in his mind in the shape of some problem of a general nature. This problem, probably, is of too vague and indefinite a character to be a fit topic for an argumentative effort. In order to develop from it a suitable proposition, it must be narrowed down and restricted within the bounds of some concrete and particular proposition. The work, then, of determining on the exact question to be discussed is largely the work of selecting out of a broad and general field some single, concrete, and limited phase of the whole problem. In performing the work of this first step *there is no exact rule or method* for all cases. Sometimes it may be necessary for the disputant-to-be to examine the contents of his own mind. More often it becomes desirable to do a considerable amount of preliminary reading and investigation in connection with the search. But, whatever the circum-

stances, the "narrowing down" process is essentially the same, and there are *certain steps that are always serviceable.* In the *first* place, it is generally helpful (a) to *consider the conditions under which the question arose.* If the writer will understand just *how he came to be interested* in the problem he has in his mind, he will be able to see more clearly just what is the phase of it with which he is most concerned and which he desires to discuss; or, if he is investigating the problem by the reading of books or current magazines, the matters really in issue will take more definite form in proportion as he understands *the circumstances that generated them and brought them into discussion.* In the *second* place, after gaining a comprehension of the origin of the question, it remains for him (b) to *analyze the ideas embraced within the general problem* as it exists in his own mind or in the minds of others. Then he is ready to select the parts he wishes to consider and classify them in such a manner that the result shall be a single, distinct, and definite proposition.

**To take an example:** Let us suppose that a student in want of a debatable proposition finds himself interested in "The labor problem." He cannot argue "the labor problem"; it is merely a term, and is too vague and indefinite an idea. He must "narrow it down." To do this, he first considers the origin of the question (or the origin of his interest in the question). He finds perhaps, that his interest has been aroused by some magazine article discussing compulsory arbitration as a cure for strikes, or by some comment among his friends on the incorporation of labor unions. Having gone thus far, it remains for him to analyze his ideas and so reduce the question still farther. Is it in the United States that he thinks labor unions should be incorporated? Further, does he believe they ought to be incorporated under State laws or under Federal laws? Does he want to consider only the incorporation of the unions, or does he wish to discuss the kindred question of the desirability of a compulsory arbitration law? And so he goes on, interrogating his own mind,

until he hits upon the exact phase of the labor problem that he wishes to discuss. He has discovered the "real question."

**2. Formulating the tentative proposition.** Having found the real question he formulates a proposition, perhaps as follows, "Resolved: that in the United States labor unions should be compelled to incorporate under Federal laws." But this is only a part of the task; the question still remains: Is this *the* proposition? Does it contain the ideas the student has in mind? The statement thus made must be tested to see if it expresses just what the writer intends.

**3. Testing this proposition** as first formulated is very important. A carelessly constructed sentence may result in the making of a proposition which is very far from the embodiment of the writer's ideas. And this carelessness may have very serious results. A false grammatical construction or the choice of a wrong word may mean the difference between victory and defeat, between having one's ideas accepted and having them rejected. To avoid these dangers, care must be taken that each word of the statement, and the statement as a whole, shall represent one's ideas as accurately as possible. Failure to understand the exact meaning of a given proposition is often shown in the class room.

**For example,** take a discussion of the question: "Resolved: that labor unions in the United States are detrimental to the industrial interests of the country." In a debate on this proposition, the affirmative admitted that the principle of the organization of labor was right, and that labor unions ought to exist in some form; "but," they said, "labor unions to-day are detrimental because they inflict certain injuries on the consumer and the employer, by such means as strikes, the limitation of output, the uniform wage scale," etc. The negative said, in substance, "We admit that labor unions declare strikes, and that strikes are bad; we admit that the unions sometimes limit output; but we contend that on the whole the unions are not detrimental, because the industrial

conditions would become worse if they did not exist at all." Clearly the two sides did not meet at all in the discussion. They were arguing two different questions. The affirmative was arguing whether or not the policies and principles of the unions at that time were such as to do greater injury than good to industry; the negative was arguing the question whether or not labor ought to be organized at all. The confusion arose from a failure to find out what the proposition really meant. It meant either the one thing or the other, but, in the same debate, it should not mean both. The discussion could not bring about any result till it had been settled what was the true interpretation of the question. The disputants had found *a proposition*, but not *the proposition*. Each word that may be at all ambiguous must be examined and its true meaning discovered. The grammatical structure of the sentence and the relation of the words to each other must be investigated, in order to be sure of the rightful interpretation to be put upon the statement as a whole.

**a. Definition.** This work of testing the meaning of the proposition may be called definition. The word "definition" suggests a simple and easy task. "Look in *Webster* or the *Standard Dictionary*, and work is done." But this is a mistake. Sometimes the statement is so simple that very little effort is necessary to be sure of its meaning. But often the proper testing of a proposition is a long and complicated process. To take an example: Suppose a student is trying to prepare for an intercollegiate debate a question having to do with the preservation of the "independence" of some nation. He starts out to define the word "independence." He first consults *Webster's Dictionary*, and he finds there this definition: "Exemption from reliance on others or control by them." This definition seems to fit his idea; but if he is wise he will not accept it. The definition is valueless. The dictionary merely gives the acceptation of the word in its general usage. This question of the independence of a nation is a question of international relations, and the term

"independence" is a technical term in the code of the law of nations. "Independence," then, must have the special meaning given it in international law.

The student must seek this special meaning. He may look in some larger dictionary, which will explain the term in its technical interpretation. Probably he will directly consult the international law authorities themselves. In Lawrence's *Principles of International Law*, p. 111, he would find the following: "Independence may be defined as the right of a state to manage all its affairs, whether external or internal, without interference from other states, as long as it respects the corresponding right possessed by each fully sovereign member of the family of nations."

This would surely seem to be a final definition. But if the student should go into a debate with that as his understanding of the word, he would probably meet with an unpleasant surprise. If he should carry his investigation further, he would find that there are *exceptions* to the rule laid down in the definition, exceptions that are really a part of the rule of law. He will find that one nation or a group of nations may directly interfere in the external or internal affairs of another nation without violating that nation's rights of independence, provided the intervening nations are interfering in order to protect their own rights of sovereignty. He would find further that the theory of independence permits a nation, even when its own sovereign rights are not endangered, to interfere in the affairs of another nation and restrict the exercise of some of its natural rights of sovereignty, provided the restrictions imposed are of a certain limited nature as to their extent and duration. These exceptions are as important as the so-called "definition" itself. In fact, the debate, if well argued, would probably turn on the truth of these exceptions and their application to the question.

An understanding of the true meaning of this word "independence" could only be found by this painstaking investigation. No less careful or less thorough definition could

have disclosed the import of the word; and this accurate knowledge was indispensable in order to make the proposition of any real value.

**b. Summary of steps in definition.** In the case of nearly every such definition, the same method has to be pursued. First, find its *ordinary acceptation.* Second, determine whether it may have any meaning that is *technical* or in any way peculiar. If it does have such a peculiar meaning, the definition must be sought in the exposition of some writer who will explain this special interpretation. If it is a term in science, go to the specialist in that science; if a political phrase, go to the statesman or historian; if a legal term, go to the jurist. Third, even after the definition is obtained from a good authority, consider the questions: Are the terms of this definition that I have found exact? Are there any *exceptions* to the general statement? The exceptions sometimes destroy the rule.

**4. Comparing and adjusting results of other steps.** For the fourth and last step it remains simply to compare and adjust the results of the first three steps. If the work of definition shows the statement as originally formulated to be inaccurate or ambiguous, if it is found that the tentative proposition does not express the ideas that the author intended it to express, then the statement must be *changed* till it finally does put the real question into words, clearly and accurately.

**C. These steps are not to be taken mechanically.** It must not be supposed that they are mutually exclusive, set off by hard and fast lines, and always to be followed rigidly one after the other in the order given. They represent rather an analysis of the process one should follow in framing a proposition under the most difficult circumstances. They show the maximum of work to be done. In ordinary practice they run together, and we phrase propositions usually perhaps without taking all of these steps. This process is offered here as a guide for the most difficult cases, and as a testing and checking device in all cases. As much of this

process should be followed in each instance as is needed to insure the correct statement of the proposition.

## III. Characteristics of Good Propositions for Debate

**A. A list of desirable characteristics [1] or qualities of good propositions** for debate will help us to test ready made resolutions for debate. We do not formulate from a general field all of the propositions on which we have to work either in courses in argumentation or in our business and political activities. Many of them are given to us by others. Moreover, many of the subjects on which we do formulate propositions are of such a nature that the processes we have been discussing do not have to be worked out in detail. It is therefore worth while to have such a list in order that we may have a simple series of tests by which to judge all propositions, our own and those of other people. Such tests are particularly needed for propositions for formal debate.

**1. Assertion.** A proposition for debate should be phrased in the form of an assertion, not a question. This is necessary in order to get a clean-cut statement of the position of the affirmative. It prevents ambiguity and makes possible an accurate placing of the burden of proof. "Resolved: that the city of X should install a water system using the water of Lake A." Not, "Should the city of X use the water of Lake A?"

**2. Single.** A proposition should be *single, not double.* The error must be avoided of combining two separate ideas in one proposition; two questions, closely akin to one another but really distinct from each other, may easily become confused and be carelessly joined together in a single statement. For example, students sometimes devise such propositions as, "Resolved: that a high protective tariff is hostile to the economic interests of the United States, and reciprocal trade relations should be established with the Dominion of Can-

[1] For similar lists see Foster, p. 12, Ketcham, pp. 13 and 20.

ada;" or, "Resolved: that labor unions are detrimental to industry, and they should be compelled to incorporate." Now in each of these propositions there are two problems presented; these problems are similar in the nature of the ideas contained in them, but the issues to be determined are very different. The proofs necessary to establish the fact that labor unions are detrimental to industry are not at all the same proofs required to show that they should be compelled to incorporate; so that the attempt to combine in one demonstration what are really two distinct proofs must result in confusion. We may handle each of these questions separately, but we cannot hope to treat both successfully in one debate. Consequently, in formulating our statements for debate, we must be sure not only to have a proposition, but to have a single proposition.

**3. Unambiguous.** A proposition should be unambiguous. Avoid ambiguous, general terms capable of a number of different meanings—Civilization, church, progress, conservatism. Use the most specific, most definite, most limited term possible in each case. For example, in the proposition: "Resolved: that the judiciary should be (or should not be) independent of the will of the people," what is meant by "judiciary," "independent," "the will of the people"? Until definite meanings have been agreed upon for all of these terms (and preferably substituted for the original ambiguous terms in the proposition) there can be no discussion worth while.

**4. Unprejudiced.** A proposition should be unprejudiced. The question must not be *begged* by a phraseology that assumes the point to be proved. "Resolved: that the *undesirable* Japanese should be excluded." "Resolved: that the *inefficient* lecture system should be abolished." "Resolved: that the *barbarous* conduct of the Bulgarian troops should be condemned." The italicised words are all question begging epithets which practically cover the point at issue. Avoid all descriptive expressions of praise or blame. Colorless ex-

pressions which serve simply to identify or define should be used exclusively in phrasing propositions.

**5. Concrete and specific.** The proposition for debate should be as concrete and specific *as possible.* This rule is qualified somewhat because one cannot accurately say that all propositions for debate should be concrete and specific. If the case presents for discussion an abstract or general proposition, there is no reason why such discussion should not be had, but every proposition for debate should be as concrete and specific as the circumstances of the discussion permit.

**6. Burden of proof on affirmative.** The burden of proof should be on the affirmative. This general principle which is universally true, should replace the rules of thumb containing half truths in regard to the negative statements and the word "not." It makes no difference whether the proposition is worded negatively or contains the forbidden word "not," so long as the affirmative of the proposition as worded has the burden of proof.[1] The burden of proof actually rests upon the side advocating a change, or opposing the existing order. The presumption is with "things as they are" wherever there is well-ordered discussion. Wherever there is debating which pays proper attention to logical sequence and economy of time and attention, the attack of the one opposing the present and advocating the new, is always advanced before the defense of the established order (or a counter proposition or remedy) is brought forward. So that in phrasing a proposition for debate, in order not to go astray on this point, the only thing that is necessary is to inquire which side is advocating the new, and opposing the existing situation; then so word our proposition that that side will have the affirmative. Often changing situations require different wordings of propositions due to the fact that the actual presumption may change from side to side with changing conditions. For instance, a few years ago the proposition

[1] See ch. 3 on "Burden of Proof."

"Resolved: that United States Senators should be elected by popular vote," was well worded. Now this proposition is badly worded because the burden of proof actually lies upon the negative, and the presumption is with the affirmative. Therefore, to-day the proposition should read, "Resolved: that United States Senators should be elected by the Legislatures of the several states," or some other wording which places the burden of proof upon the affirmative, and requires the affirmative to advocate a change from the existing order.

**7. Brief and simple.** A proposition for debate should be as brief and simple *as possible.* This rule is also qualified because brevity and simplicity should always be sacrificed to accuracy. It sometimes happens that we are debating a proposition which deals with a situation so complex that a long and complex proposition is needed to set forth with accuracy our opinion in regard to this situation. All we can do is to strike out every superfluous word, and to have as brief and simple a statement as will allow us to say accurately what we wish to say.

**8. Debatable.** A proposition for debate should be debatable. By that we mean that it should be two-sided. To speak more accurately, a proposition is debatable when it is such that it permits an intelligent difference of opinion, after the important facts which underlie it have been set forth. We must avoid propositions which should be settled by definite tests, or measurements, or investigation, rather than by discussion. For instance, do not debate the question of a horse's weight; weigh the horse. Do not debate whether or not the price of a certain commodity has risen 25% in the last decade; refer to trustworthy reports and find out whether or not this is true. This means practically, *Do not debate pure questions of fact when it is possible by investigation to determine the truth so accurately that intelligent men cannot differ after the results of the investigation become known.* Important questions of policy are practically always good questions for debate. Certain questions which are questions

of fact, but which cannot be settled accurately by simple investigation, such as questions concerning the origin of the earth, the origin of life, the descent of man, etc., may also be excellent questions for debate. Useless, of course, for the purpose of debate are all propositions stating mere personal taste or opinion which is based upon elements that are hard to weigh and measure, or which involve comparisons that must rest either upon such elements or upon simple definition. For instance: "Resolved: that Lake Y is the most beautiful lake in America." "Resolved: that law is a nobler profession than medicine." "Resolved: that James Whitcomb Riley was a great poet."

**9. Interesting.** Propositions for debate should be interesting. This applies of course more particularly to public contest debates. The affairs of actual life require us often to debate whatever propositions come up for discussion regardless of whether or not we are interested in them; and we do not propose to say that committees, courts, and legislatures should refrain from taking up any but interesting questions. But for contest debating and practice debating, particularly if the debaters want the advantage of a live audience, we should give some attention to choosing propositions that will be generally interesting to the debaters and to the audience that we wish to attract.

## EXERCISE. CHAPTER 2

### THE PROPOSITION

1. Properly phrase as good propositions for debate six propositions of fact and six of policy.
2. Phrase good propositions on some phase of each of the following subjects (these terms need not necessarily be used in the proposition): Woodrow Wilson; Theodore Roosevelt; Co-education; College Entrance Requirements; Minimum Wage; Mexico; Foreign Trade; Liquor

Regulation; English Composition; Inter-collegiate Athletics.

3. Bring to class three argumentative newspaper editorials, clipped from the recent press, preferably from the college paper, with a properly phrased proposition of your own for each, which embodies as accurately as possible the thesis of each editorial.
4. Hand in a list of ten poorly worded propositions for debate, taken from lists of propositions in text-books, pamphlets, bibliographies, etc., indicating the defects in each, and giving the proper re-wording.
5. Hand in a well-worded proposition on some important subject of interest to you, on which you will work during the whole semester, and which will be referred to hereafter as the subject for your "original forensic."

Note: Lists of propositions ready worded for debate are omitted from this book because it is felt that each class can better work out its own propositions according to the suggestions of this chapter. Subjects for propositions can easily be obtained by reading the editorials of the daily press, or looking through recent or current numbers of such periodicals as: *Current Opinion, The Review of Reviews, North American Review, The Forum, The Literary Digest, The New Republic, Colliers, The Nation,* etc.

# CHAPTER 3

## THE BURDEN OF PROOF

### OUTLINE

A. The problem of the burden of proof.
B. In legal procedure.
C. The shifting of the burden of proof.
D. Counter propositions.
E. Two propositions at once.
F. The burden of rebuttal.
G. Summary.
    1. Burden of proof always on the actual affirmative, never shifts.
    2. Actual affirmative is the one who wants a change.
    3. Actual affirmative and nominal affirmative must coincide.
    4. Affirmative *prima facie* case creates for negative a burden of rebuttal.
    5. Burden of rebuttal may shift from side to side during the debate.
H. Presumptions.
    1. Of law.
        a. Conclusive.
        b. Disputable.
    2. Of fact.

**A. The problem of the burden of proof,**[1] in common with many other specific problems of general argumentation, can best be studied by investigating its treatment in legal procedure; for it is in the law that *practical* reasoning has received most attention and reached its highest development. It

[1] For an exhaustive and authoritative discussion of this whole subject, see Thayer's *Preliminary Treatise on Evidence at the Common Law*, Chapter IX. Boston: Little, Brown, and Co., 1898.

seems to us wise to give a separate chapter to this problem, and to try to present a clear and complete statement of the burden of proof in law and in general argumentation. If close attention were paid in argumentation outside the court-room as well as in legal trials to such matters as burden of proof, burden of rebuttal, *prima facie* case, types of negative cases, etc., much confusion, disorganized bickering, and futile disputing would be avoided. These doctrines are simple to understand, easy to apply, and should be adhered to in all argumentation which has any serious purpose whatever.

**B. In legal procedure.** The expression "burden of proof" in law is used in two different and distinct meanings, and is also used by some people in a confused way to represent both meanings without discrimination. *First.* It is used to represent the "risk of the proposition," the burden upon that party to the controversy who will lose if nothing is done. It is the burden of making good his claim which rests upon the one who starts an action, who demands a change from the existing situation. This is the true meaning of "burden of proof," and is the only proper meaning of that term outside of law courts. *Second.* In law, however, a different meaning is also recognized. The term "burden of proof" is sometimes used to mean the duty of "going forward with evidence or argument" at any given time. Thus, if the plaintiff who has the burden of proof in the first instance, makes out a *prima facie* case, the defendant must bestir himself in opposition to the affirmative, or accept defeat. In these circumstances, he is said to have a duty to go forward with either evidence or argument. If he accomplishes this successfully, then the duty of going forward is once again upon the affirmative or plaintiff. This duty or burden is clearly quite distinct from the original risk of the proposition, of making good his claim, which is upon every man who goes into a court with a claim of any kind. *Third.* There is, as we have said, a confused and undiscriminating use of the

expression "burden of proof" to cover either or both of these concepts.

**C. The shifting of the burden of proof** has long been a vexed question in argumentation. It is clear from what we have said above that the burden of proof in its first and most legitimate meaning, that of the "risk of the proposition" which is carried by the party to the controversy who demands a change, *can never shift.* Since this is the only meaning that the expression "burden of proof" should have in general argumentation, it is proper to say that *the burden of proof never shifts.* The duty of going forward with evidence or argument at any given time, of course, may shift from time to time in the course of the trial or discussion. But the proper term to apply to this shifting burden is neither "burden of proof" nor "duty of going forward," but "*burden of rebuttal.*" This "*burden of rebuttal*" *may shift.* For example, the burden of proof rests with the plaintiff or the affirmative who comes into court (or into a legislature, before a mass meeting, a board of directors, or other assembly, or conference) demanding or recommending a change in the existing situation. He necessarily takes the responsibility of showing that such a change ought to be made. Before anyone can be required to show why such a change should not be made, the plaintiff or the affirmative must make out a *prima facie* case. A *prima facie* case is one of sufficient strength to win if it is not refuted. Suppose the affirmative makes out such a case. Then the negative has a "burden of rebuttal." He has not a burden of proof. His essential responsibility is only to counteract the influence of the *prima facie* case of the affirmative. If he does this the burden of rebuttal may be said to shift to the affirmative, and if the affirmative successfully answers the negative, the burden of rebuttal is once again upon the negative and the *prima facie* case stands still unanswered. If we will keep in mind these two expressions, "burden of proof" and "burden of rebuttal" and use them always as here defined, there will be no more

confusion in regard to burden of proof. These terms will be used in this way throughout this book.

**D. Counter propositions.** Whenever the answer of the negative takes the form of a counter proposition[1] (in law an "affirmative defense") the negative, of course, becomes essentially an affirmative, and has the burden of proof on the new proposition. For example, if in a first degree murder case the answer of the defense is not that the accused did not kill the deceased, but that the accused was insane at the time, this constitutes a counter proposition. For the time being the question at issue is not, "Resolved: that A is guilty of murder in the first degree," but, "Resolved: that A is (or was at the time in question) insane." On this proposition the original defense becomes the affirmative. The accused is presumed to be sane until the contrary is established. The original prosecution becomes the negative, and seeks to prevent the establishment of the fact of insanity. Here, clearly, there is no shifting of *the* burden of proof. There is a new proposition with a burden of proof of its own, and this burden is on the new affirmative, and never shifts.

**E. Two propositions at once.** There is one type of discussion in which there are really two affirmatives, two negatives, and two burdens of proof; really two propositions to be decided in the same case. Such is the situation when we have a case of direct comparison between two claims neither of which has any presumption in its favor. This is the case when it has been decided that a certain thing shall be done but the choice between two plans has not yet been made. Suppose it is decided that a canal shall be built between A and B. The only question is whether the canal will be built on the X route or the Y route. A commission is appointed to decide, and the advocates of the two routes appear before the commission to debate. Here there is really no affirmative, no negative, no burden of proof as regards the big issue. It is a *question*, and cannot be stated as a resolution placing a bur-

[1] See *Types of Negative Cases*, ch. 16.

den on one unless we frame a counter proposition placing the burden on the other. But if the X route has been adopted, then the presumption is in its favor and the advocates of the Y route have the burden of proof to show that the Y route is better than the X route.

**F. The burden of rebuttal.** This term was invented by Dean H. W. Ballantine. It is to be hoped that its use will become universal. Its general acceptance will lend accuracy and clearness to what has heretofore been a confused and troublesome situation both in law and general argumentation and debate. Says Dean Ballantine,

"Professor James Bradley Thayer was the first to demonstrate clearly the inaccuracy of the common expression that the burden of proof 'shifts,' and to elaborate the distinction between the burden of proof in the sense of 'duty to establish,' which never shifts, and what is awkwardly termed 'the duty of going forward with the evidence,' which does have the characteristic referred to as 'shifting.' It is suggested that what is referred to as the burden of proof in this second sense, or the so-called 'duty of going forward with the evidence,' which is in fact not a duty at all, ought to be christened by the new but exact name of '*burden of rebuttal.*' When the plaintiff makes out a complete *prima facie* case, whether with the aid of a presumption or by reasonable and credible evidence, the burden of proof is said to shift to the defendant. This use of the phrase is very inaccurate and confusing. What is meant is that the plaintiff, having established a preponderance in favor of his contentions, has created a *burden of* rebuttal, or the necessity for this opponent to meet and repel his *prima facie* case by evidence of equal weight. This may be accomplished either by counter proof and refutation of one or more of the essential propositions of the plaintiff's case, or by the defendant assuming the laboring oar and making affirmative proof of new propositions of his own in confession and avoidance.[1] The burden of proof is

[1] See *Pleading*, Appendix B.

thus sometimes assumed by the defendant, but the need for this arises only after the plaintiff has made out by evidence, presumptions, or admissions, his case in chief. *The defendant may have the choice either to bear the burden of rebuttal which has been created by the plaintiff, or to assume the burden of proof of an affirmative defense*, as where the defendant, instead of denying the due execution, shows a material alteration in the note sued on, and then the plaintiff in turn has either to deny or rebut such showing, or confess and avoid it by proof of circumstances rendering the alteration lawful or excusable. The plaintiff must always at his peril maintain the proof of his own contentions at the required height and keep them good. As to these the burden never shifts from him although he may satisfy it from time to time. *But the burden of rebuttal may be created for the plaintiff to reply to the affirmative propositions of the defendant*, in addition to the necessity of restoring his own contentions. Thus the center of gravity, or the preponderance of the evidence, may shift from the plaintiff to the defendant or back again, but the burden of establishing the proposition of claim or defense is always with the same party. The negative is safe with an even balance or equilibrium and he need merely rebut or neutralize his adversary's proof; he need not establish a rebuttal by a preponderance of evidence." [1]

**G. Summary:** 1. The burden of proof, then, always rests upon the actual affirmative. 2. The affirmative is the party who will lose if no evidence or argument is offered—if nothing is done. The affirmative is the dissatisfied party, the one who wants a change, the attacking party. 3. Care must be taken that propositions be so phrased that the actual affirmative and nominal affirmative coincide, that the affirmative of the proposition is actually taken by the one upholding the burden of the controversy. "The obligation of proving any fact lies upon the party who substantially as-

[1] H. W. Ballantine, *The Apportionment of Proof and the Burden of Rebuttal. Law Notes*, Dec., 1912, p. 168.

serts the affirmative of the issue." [1] For example in the question: "Resolved: that in the United States private ownership of railroads is preferable to national ownership," *the negative* advocates a radical change. The negative "substantially asserts the affirmative of the issue." So the negative has the burden of proof, and is under obligation to present evidence or argument before the affirmative can properly be called on. If nothing is done the affirmative wins. This of course is all wrong. The error is in the wording of the proposition. It must be changed so that the real burden of proof will rest on the affirmative side. This can be done by transposing the words "private" and "national." Then the affirmative is the attacking party, the dissatisfied party, the one who loses if nothing is done. 4. When the affirmative has carried its burden of proof sufficiently to establish a *prima facie* case, it has created for the negative a *burden of rebuttal.* 5. The burden of rebuttal (a more accurate term than 'the duty of going forward with argument or evidence') *may shift* from side to side during the conduct of the debate.

**H. Presumptions** of one kind or another are so often mentioned in connection with the burden of proof that it is well to state briefly the common usage of this term in law; in order that we may know accurately what we are doing when, in general argumentation, we attempt to use this term in a way analogous to its legal usage. In order to set forth with accuracy and authority the statement of the theory of presumptions in English law, we quote the following from an article in the English *Law Magazine*, volume 6, p. 348, October, 1831. This article Professor Thayer quotes [2] and characterizes [3] as "The best consideration of the subject of presumption known to me."

"Presumptions are commonly divided by writers on English law, into two classes, namely, presumptions of law, and presumptions of fact.

[1] Greenleaf, p. 93.

[2] *Prel. Treatise*, pp. 539ff. Appendix.

[3] Thayer, pp. 313, footnote.

"**1. Presumptions of law** are of two kinds. a. *First, conclusive* or imperative presumptions, that is, legal rules not to be overcome by any evidence that the fact is otherwise. Thus by the statute of limitations, a simple contract debt, not kept up in certain specified manners, is extinguished after a lapse of six years, nor can it be recovered by proving that the sum due has never been paid. . . . Again, a sane man is presumed to contemplate the probable consequences of his own acts; and this presumption is conclusive, nor may he rebut it by showing that in fact he did *not* foresee them. . . . b. *Second,* '*disputable* or rebuttable presumptions are definitions of the quantity of evidence, or the state of facts, sufficient to make out a *prima facie* case; in other words, of the circumstances under which the burden of proof [burden of rebuttal] lies on the opposite party. Of this very extensive class of presumptions a few examples will suffice. Thus, a man is presumed innocent until he is proved guilty; that is, if a man is charged with a crime, he is not bound to prove that he did *not,* but his accuser is bound to prove that he *did* commit it. (In cases of homicide, however, if it merely appears that one man has killed another, he is presumed to be guilty of murder, unless such evidence is produced as will either reduce the offense to manslaughter, or entirely remove its criminality, by justifying or excusing it.) [1]

"**2. Presumption of fact** has a totally different meaning from *presumption of law;* and refers not to propositions, but to arguments—not to assuming, but inferring. When evidence is offered which can only be brought to bear on the matter at issue by a process of reasoning, the inference is termed a *presumption of fact.* The statement on which this inference is founded is termed *presumptive evidence.*[2] . . . If the witness or documents attest, not the fact to be proved, but something from which that fact may be inferred, the evidence is said to be presumptive or indirect. [The distinction

[1] Footnote by Thayer, p. 541.

[2] See *Circumstantial Evidence,* ch. 6.

between positive and presumptive evidence is most correctly stated by Mr. Bentham. 'Evidence (says he) is direct, positive, immediate, when it is of such a nature, that (admitting its accuracy) it brings with it a belief of the thing to be proved. Evidence is indirect, or circumstantial, when it is of such a nature that (admitting its accuracy) it leads to a belief of the thing to be proved only by way of induction (i. e., *de*duction), reasoning, inference.'—Treatise on Evidence by Dumont, 186n.] [1] A presumption, therefore, in this sense, or a presumption of fact, can only mean an argument or inference; and presumptive evidence is not evidence taken by itself, but only because, joined to some other general proposition, it tends to prove a certain conclusion. Thus, when it is said that, where a person was found standing over a wounded man with a bloody sword in his hand, there is a presumption (or it may be probably inferred) that the one stabbed the other; the fact that the man was found with a bloody sword has, in itself, apart from its consequence, no weight; but it tends to determine the question at issue, who stabbed the wounded man. So, if the date of a man's birth be at issue, and it is proved that he died in a certain year at a certain age, his age and the time of his death are in themselves indifferent; but they are data to determine the year of his birth. . . .

"Natural presumptions, or presumptions of fact, are not properly opposed to legal or artificial presumptions; but are arguments founded on presumptive or circumstantial evidence, which is opposed to direct or positive evidence. Presumptive evidence being that which tends to prove the fact at issue, or from which the fact at issue may be inferred; while direct evidence establishes the fact at issue itself without any process of reasoning."

[1] Footnote by Thayer, p. 547.

# CHAPTER 4

## THE ISSUES

## OUTLINE

### I. Theory of Issues

A. Issues defined.
B. Examples.
    1. In law.
    2. In general discussion.
C. Terminology.
    1. In law.
    2. In general argumentation.
        a. Potential.
        b. Admitted.
D. Necessity of knowing.
E. Issues and proposition.
F. Issues and burden of proof.
    1. Affirmative and negative.
    2. Counter proposition.
    3. Winning or losing.
G. Issues and conviction and persuasion.
H. Number and form of issues.
I. Issues and partition.
J. "Stock issues."

### II. Finding the Issue

A. Think.
B. Study.
    1. History.
        a. Origin.
        b. Present status.
    2. All phases.
    3. Both sides.

C. Exclude.
   1. Mutually admitted matter.
   2. Irrelevant matter.
   3. Unimportant matter.
   4. Indirect matter.

D. Select.
   1. Points which meet tests of C.
   2. Vital points.

## I. The Theory of the Issues

**A. Issues defined.** The issues are the inherently vital points, elements, or sub-propositions, affirmed by the affirmative and denied by the negative, upon the establishment of which depends the establishment of the main proposition. They are the ultimate, irreducible, essential matters of fact or of principle (law) upon which the conclusion of the question hinges. They are not simply "important main points" or "points on which there is a clash of opinion." They are the smallest possible divisions of crucial points, *each one of which* the affirmative must establish in order to establish the proposition.

**B. Examples.** Before explaining further let us illustrate this by concrete examples from law and general argument.

**1. In law.** First let us say for example that A is accused of the crime of burglary at common law. Now this crime has five essential elements, (1) breaking, and (2) entering (3) a dwelling (4) at night, (5) with felonious intent. There are in the first place five issues here. The State (affirmative) must prove all five. They are all vital. If the defense (negative) prevents the affirmative from establishing any single point beyond any reasonable doubt, the case of the affirmative fails. Then the defendant is not guilty of burglary. He may be guilty of a number of other things, but that is another story. The defendant may admit that he broke and entered a dwelling at night, but deny that it was done with felonious intent—say he did it to put out a fire.

The affirmative has established (or gained an admission of) four of the five necessary points, but the whole case falls. No affirmative case can stand after the loss of a single issue. Any point which the affirmative can fail on, and still establish the case *cannot be an* issue, though it may be very important. Importance is not enough—an issue is *vital* in the strictest sense of that word.

**2. In general discussion.** Let us take an example in a general field of discussion in which the issues are not determined for us by technical legal definition. Suppose a proposition advocating the adoption of a "single tax" system in some city, state, or nation. The issues are the specific propositions that the affirmative would have to prove to the satisfaction of a competent board of judges in order to show that the particular single tax system they advocate ought to be adopted. Suppose there are three such sub-questions that the affirmative must answer satisfactorily, in order to establish the proposition, for instance, (1) Is the present system unsatisfactory? (2) Will the new system raise sufficient revenue? (3) Will it do this with substantial justice (i. e., without evils—those complained of, or others as bad)? If careful investigation should show that these are the issues of the particular proposition under discussion, the *affirmative must prove all of them in order to establish its case.* If the negative shows that the claims of the affirmative on any one of the three points are unfounded, the case fails, the negative wins. If the present system is satisfactory—no abuses—no shortcomings—no evils—is it possible to win a case for a new system? If a tax system (old or new) will not raise sufficient revenue, it is no good. What will be *sufficient* will, of course, vary in different circumstances—but this question, of the results to be obtained is always vital in such a question, always an issue—if the negative fights on it. And if the new system will not remove present evils—or will introduce others just as bad or worse—then it is no good. So if the negative blocks the affirmative on a single issue the affirmative loses.

**C. Terminology.** Since there is considerable confusion in regard to issues in argumentation, and since various kinds of issues are sometimes mentioned in either law or general argument, it may be well to consider the uses of the word with its appropriate modifiers in each field.

**1. In law.** Our theory of issues in general discussion is borrowed from legal procedure.[1] We shall, therefore, start with a lawyer's statement of the theory of issues in law. Professor W. C. Robinson gives the following statement in his *Forensic Oratory:*[2]

"Every cause, civil or criminal, consists of one or more propositions, either of fact or law, affirmed by one side and denied upon the other. If but a single proposition is affirmed, the issue is a simple one, and the denial is as comprehensive as the affirmation. Where two or more propositions are affirmed, the denial may extend to all, resulting in a complex issue, or it may be confined to one, and constitute a simple issue. In trespass *quare clausum*, for example, the plaintiff must affirm possession in himself, and an unlawful entry by the defendant. The defendant may deny the entry or the possession, thus tendering a single issue, or by a general denial he may raise a complex issue, and put the plaintiff upon proof of both. Again, in burglary the commonwealth affirms that the defendant broke and entered, in the night season, with felonious intent, into the dwelling of another. A general denial creates a complex issue, . . . on each of which the commonwealth must establish its position beyond a reasonable doubt. Or the defendant may in fact, if not in form, rest his defense upon a single issue . . . and successfully maintaining this, attain the same result as if . . . [all] had been decided in his favor.

"Each of these primary issues may in its turn contain other [subordinate] issues, either simple or complex, whose determination is essential to the decision of the issue which includes them; and under these still lesser issues may be

[1] See *Pleading*, Appendix B.

[2] Pages 62, 63.

found, until the whole cause may be made to rest upon some single indivisible fact, or on some simple dictum of the law. This single fact or dictum then becomes the *actual issue* in the cause, the only matter in dispute, the final test of legal obligation. Thus, in the charge of burglary, the defendant may deny the breaking, on the ground that the door by which he entered was ajar, and on this fact alone the question of his guilt or innocence depends. Or in a trespass, if the defendant justifies his entry for that he was an officer duly serving civil process, and this be met with an allegation that his entry was upon the Sabbath before the setting of the sun, the entire cause may be reduced to the question as to the moment when defendant entered on the plaintiff's land.

"Whenever the issue can be thus simplified and concentrated in one single proposition, the labor both of the advocate and of his auditors is rendered short and easy. Confusion and obscurity, as far as is ever possible, are thereby excluded. The relevancy of the proof is clearly seen and the idea of legal obligation is easily developed and applied. Justice as well as the true interest of both parties, therefore, requires that the cause should be presented to its arbiters with issues as few and as well defined as the nature of the controversy will permit. The discovery of this last, decisive issue is the first duty of the advocate. This constitutes the cause. This is the only proper subject-matter of the oration. The ideas which lead his hearers to decide it in his favor are all with which he need concern himself. If he can induce them to agree with him on this, his cause is won; if not, his cause is lost."

**2. In general argumentation.** These primary and secondary issues are found in all argumentation. The use of them in the law courts differs slightly from their use in argumentation elsewhere in this: in a court the primary issues are declared and set forth in the pleadings, before the real argument begins; whereas in ordinary argumentation the finding and explaining of these primary issues may be part

of the debate itself. But under all circumstances these issues and the method of finding them are essentially the same. The primary issues in both cases must be sought first. The primary issue in law is close to the potential issue in general argumentation, but in the latter whenever we can break up a primary issue into say three points, each of which is still vital, then we have three potential issues and will have to establish all of them as actual issues if the negative fights on them. The outcome of the argument may depend almost entirely on the establishment of some one or more of the subordinate issues; as, for instance, the question of whether a door was slightly ajar, or the time of day at which a thing was done, or the trustworthiness of a witness. But the significance of any such subordinate issue is derived from the fact that it affirms or denies one of the primary issues, so that its bearing and importance cannot be understood until one knows the primary issue which it serves to establish. The primary issues, then, must be found first. If in general argumentation we keep a clear distinction between "issues of fact" and "issues of principle" paralleling the law's distinctions between issues of fact and of law, we will save considerable time and avoid much confusion. In general argument the term "issues" is usually employed instead of "complex issue."

For the purposes of general argumentation it seems better not to use the term "subordinate issue." In this freer field in which we are not bound by the legal systems of procedure and rules of evidence, the problem is to find the (primary) issues or issue, and then proceed to attack and defend with whatever witnesses, evidence, and arguments are available under the circumstances of the particular case. The broader term "partition" better suited to general argumentation renders the use of the term "subordinate issues" unnecessary and undesirable. In this book, then, the term "the issues" will be used to designate the actual issues—the smallest division of points that, from the very nature of the problem, the

affirmative must establish to establish the proposition, and which the negative refuse to admit.

**a. "Potential issues."** The potential issues are always the same in the same question; they exist independently of the wills of the disputants; they are to be *discovered*, not *invented* or *chosen*. They are the points that are so vital that they must be established or admitted in order to establish the proposition. The "potential" issues—the points that will have to be proved by the affirmative unless admitted by the negative—exist in the very nature of the proposition, —and are always the same in the same proposition. They are always the same for affirmative and negative, always the same for every affirmative and every negative, on a given proposition. Their discovery results from a thorough analysis of the proposition.

Of course, if propositions vary in any way, the potential issues may vary. "Resolved: that the commission form of government should be adopted in Chicago," is *not* necessarily the same proposition as, "Resolved: that the commission form of government should be adopted in Dayton, Ohio." In these cases the potential issues may or may not be the same. But if on a certain evening twenty debates are held in the city of Chicago on the first resolution, the potential issues will be the same for all debates and for both teams in each debate.

**b. "Admitted issues."** Any "potential issues" which the negative will admit may for convenience be called "admitted issues." These, of course, drop out of the controversy. Admitted matter obviously cannot be an actual issue. The issues are the inherently vital points that are controverted by the negative. In general argumentation what might be an issue if it were denied, falls back into the class of "admitted matter" when it is admitted, and ceases to be of importance in the discussion.

For instance: If in a given action possession in A and entry by B are the points on which the proposition must rest, and one is admitted, then the other constitutes the sole issue *in*

*that contest.* So if the basic vital points in a proposal for the adoption of a certain scheme of taxation are (a) the elimination of present evils, (b) the raising of sufficient revenue, and (c) the working of justice to all classes, (that is, not bringing in new evils)—if these are the foundations and the negative admits (a), then the issues are (b) and (c). If the negative admits (a) and (b) then the issue is (c).

**D. The necessity of knowing the issues** cannot be overestimated. Without an understanding of them the proposition is nothing more than a name. Argument on any question implies some difference of opinion; it means that there are certain ideas affirmed by one side and denied by the other. The proposition is merely an expression of this clash of opinion, and an understanding of its meaning depends entirely upon a comprehension of the points of conflict. If the writer would prove his proposition, he must prove these critical points. Moreover, the value of his materials depends upon their relation to these points; any evidence that gives a direct and substantial support to these vital facts is valuable; whatever does not bear directly on these facts is, at best, of secondary importance. If a disputant makes a mistake in finding these critical points on which the discussion must be based, he may well *waste his time* in proving some fact that will not help him after it is proved, or he may *be surprised* in debate by attack on some vital point which he is not ready to defend. This danger is realized and guarded against in the courts of law. They demand that the issues shall be clearly stated in the beginning, and that every piece of evidence, whether of fact or of law, shall have a direct and evident bearing on some one of these issues, anything that cannot conform to this test being declared irrelevant and being excluded from consideration. Then again, a speaker or writer who does not know the issues will probably *confuse his readers or hearers* by giving them a false, distorted view of his case. If a disputant does not comprehend just what are the few vital points of his case, around which all the

lesser facts must be grouped, his proof will almost certainly lack the unity and coherence that are indispensable for clearness and force in presentation.

**E. Proposition and issues.** We have seen in the preceding chapter that in order to have intelligent argumentation, we must first have a proposition. The proper formulating of the proposition insures that we have one single question that can be argued directly and so brought to a definite conclusion. This proposition thus makes clear the general position which the disputant must argue for or against. But he is not yet ready to select the evidence or the arguments with which to support his contention. He has merely found the field of battle. Before he can open the fight, or even arrange his forces, he must examine the ground he has chosen, and find out its points of vantage and of weakness. The proposition discloses the task that must in the end be accomplished, but it does not show what are the steps necessary in the accomplishment, or just what method may be most effective. The proposition gives a single question for discussion; but even in any such single question there are innumerable arguments, points, masses of evidence, that may be brought forward. All these arguments and all this evidence cannot be used; it is not all of equal value; some of it will have such a direct and obvious bearing on the question that it must have great weight; but much of it will have such an indefinite and remote bearing that to use it at all would be a waste of time. Clearly, then, the next thing for the disputant to do is to get some standards by reference to which he can determine the value of these materials. There are always certain points or propositions that are critical, that are so vital that the whole question must hinge on them. A century and a half ago, John Ward, in his *Systems of Oratory*, said: "But in all disputes it is of the greatest consequence to observe where the stress of the controversy lies. For, without attending to this, persons may cavil about different matters, without understanding each other or deciding anything."

In any discussion the "stress of the controversy" inevitably falls upon the proving or disproving of a few points, which are the center and soul of the question: only as those who have the burden of proof win in the struggle over these points can they win the whole contest. In order, therefore, to know what proofs to use, the disputant on either side, must first find out just what are the points that the affirmative must establish by the proofs in order to establish *the proposition.* These points are the issues.

**F. Issues and burden of proof.** It is well to consider the relation of the theory of issues to various aspects of the theory of burden of proof, in order that their complete harmony may be clear and all misunderstanding avoided.

**1. The issues, and the affirmative and negative.** The affirmative has no *choice* in regard to issues—every "potential issue" which the negative chooses to fight on, must be established. The negative, on the other hand, may choose among the potential issues what ones to admit and what to fight on. In law this choice must be made known to the affirmative in the course of the pleading, so that a suit never starts without all parties knowing the issues and agreeing as to what the issues are. In general discussion this situation should be approximated as closely as possible. Before a debate starts, or early in the debate, a direct clash should be brought about on vital points that are left after all admissions have been made. The affirmative, of course, has the burden of proof on *each* issue. Establishing usually means "beyond a reasonable doubt" or by "preponderating evidence," so the negative in trying to block a case seeks to raise reasonable doubts on as many issues as possible, and usually does not risk everything on fewer issues than are absolutely necessary. One man may doubt on one issue and one on another, so it is well to fight on as many as offer a good chance, unless one can be absolutely sure of winning on fewer.

**2. Issues and counter proposition.** Sometimes the negative sets up a substitute or counter plan or proposition.

LIBRARY

When this is the case the negative of course has the burden of proof as to its plan. The issues of the case are not changed by this plan of defense. If the substitute does not offer an obstacle to the establishing of the affirmative side of the issues it is a waste of time to talk about it. If the substitute can be so presented as to block one or more of the *vital* points of the affirmative, the case fails—the negative wins. But the substitute may not have won.

For example, suppose in the burglary case already referred to instead of confining its case to proving unfounded one or more of the five accusations, the defense simply denies them all and offers evidence that proves conclusively that B committed the crime in question. When they accuse B they necessarily take the burden of proving B did these things. But their only purpose is to show thereby that A is innocent. And note that B is not declared guilty as the result of this trial. The proposition is that A is guilty. The affirmative have failed to establish their case either by having been blocked on one or more of the issues, or by the negative offering a substitute. But the substitute did not *win*—not in this trial. It is advanced only enough to show that the claims of the affirmative are unfounded.

Again in the single tax illustration already given, suppose that the negative after discovering the issues, finding out what their opponents must do to win, decide on offering a counter proposition instead of simply attacking these issues. The negative claims that the single tax system should not be adopted because the "classified property tax" would better meet the present situation. Now, this counter proposition is legitimate, worth while, and effective only if it meets the issues of the case being discussed. Otherwise it is simply arguing beside the point, evading the issue rather than meeting it. If the negative can show by comparison with the classified property tax system wherein the single tax system is not the proper method by which to eliminate the evils, yield sufficient revenue, or work substantial justice, then the

negative use of this substitute is allowable and wise. But if it does not meet the issues in the original proposition, its use is neither justifiable nor expedient.

**3. The issues and winning or losing.** In what we have just said concerning issues, burden or proof, and *winning* and *losing*, we have had in mind actual cases in real life, not contest debates before judges who are to say who won the debate. All that has been said, however, applies in these contest debates exactly as it does in a law court or political campaign, except the remarks on winning or losing. In a law court, in a political campaign, in business, in science, it is *the case* that is being passed on. The decision is on the "merits of the question," not on *the way* in which certain advocates handle the case. But in an intercollegiate debate, for instance, the decision should go *always* on the skill of the debaters,[1] *never* on the strength of the case (except in so far as this is indicative of the skill of the debaters). The decision to mean anything at all must be based on the skill shown in debating—not on the strength of the evidence or the merits of the case. A debate should, of course, be worked out and presented as though the decision were to be made by the audience or jury or judge on the merits of the case. For only in this way can the contestants show their real ability as debaters, but the judges should know enough about *debating* to render a decision on ability alone.

**G. The issues and conviction and persuasion.** The issues are the points that will have to be established by the affirmative in order to *convince* competent judges that their plan should be adopted. The issues have to do primarily with conviction rather than persuasion. They are the basis of the appeal to the intellect. The work of persuasion may be done in connection with proving the issues. In selecting evidence, illustration, phraseology, the emotional side of each audience (sentiments, taste, prejudices) should always be kept in mind as one of the guides in all that we do.

[1] See "Types of Decisions," ch. 16. "The Nature of Debate."

But in discovering the issues in any case, we must consider only the intellectual side of our case—the facts and the justifiable inferences from the facts. The analysis of the proposition to find the issues should be impersonal—not done with particular audiences or judges in mind. After the impersonal case is discovered then the adjusting of it to any particular tribunal should be carefully undertaken. This, of course, means paying a good deal of attention to persuasion.

**H. Number and form of issues.** *The number of issues* varies necessarily in different propositions. There are not usually more than three or four, unless in some technical or legal proposition in which there may be a large number. In a great many propositions there is but one issue. The issues are to be discovered. Careful analysis will reveal them. We cannot decide in advance to "pick out" three or four issues. We may find three or four and we may find but one. When we have found the number of points that may be issues from the nature of the case, our next step is to find out if any of them are admitted. If so we place them in the introduction as admitted matter. The others are our issues for this controversy.

When found the issues should be expressed in such *question form* that the affirmative will answer "Yes," and the negative "No." They should be always so stated in a brief, and usually so stated in a speech or written argument. Do not say "The issue is, that this plan will be financially advantageous." Do not say "The issue is, 'What will be the financial effect?'" The proper form is: "The issue is, 'Will this plan be financially advantageous?'" This represents the clean-cut question that must be answered—the exact point which the affirmative affirms and the negative denies.

**I. Issues and partition.** The partition consists of a statement of the main points to be taken up in the discussion. It is an enumeration of the steps to be taken in presenting the case. It is a plan of campaign determined on (and usually

announced) in advance. *The partition must not be confused with the issues.* They may, it is true, be substantially identical, but they may differ widely. There may be one issue and four points in partition—or three points which cover the three issues. The issues must all be *vital* points. The points in partition must all be *important* but not necessarily vital. If a single issue is lost the case fails. One or more points in partition may be lost without losing the case.

Suppose a table is hanging suspended from the ceiling by a chain of three links. If one link is destroyed the table falls. The table represents "the case," the contention of the affirmative; the links of chain represent the issues. Suppose the table is standing on five legs. One, two, or three legs *may* be removed and still the table be left standing. It might be that four legs could be removed, and if the fifth were big enough, and placed directly in the center of the table, it might hold up the table, especially if the attack on it were very weak. Here the table again represents "the case," and the legs represent the points in partition. Or suppose two armies are contending for the possession of a given territory, the control of which both understand must depend upon the occupation of two particular points (the issues), a pass and a certain height of ground. Now there are various positions which the two opposing forces may seize and hold, and various lines of attack which they may adopt, depending upon the peculiar habits and methods of the respective generals; but these positions and this strategy (the partition) are valuable only as they serve to give the command of these two critical points. In a like manner, let us suppose two disputants are arguing the questions: "Resolved: that the army canteen should be reëstablished." Now the settlement of this question may well depend upon the decision of two issues; namely, (1) whether the canteen is beneficial to the individual soldier, and (2) whether it is beneficial to the army as a whole. A speaker on the affirmative might in his argument state his intention of proving three points as follows: (1) that the

opinions of reliable army officers are favorable to the canteen; (2) that the number of arrests for drunkenness increased when the canteen was abolished; (3) that the canteen is beneficial in other countries.

These three points may be well chosen, but their importance must be derived from their efficiency in establishing the affirmative side of the two issues mentioned above. A partition, then, is a statement of the points the arguer intends to prove; the issues are the points the affirmative *must prove* in order to prove his case. If the points of the partition are well chosen, they will usually correspond closely to the issues; but they may be entirely different, and they are not in any case necessarily identical.

**J. "Stock issues."** There has been some discussion recently[1] in regard to formulas for issues or "stock issues" that can be applied to all questions. It seems obviously impossible to get stock issues that will apply to all different kinds of questions. This follows from the very nature of issues. But in regard to a large class of propositions much used in contest debate a certain formula may be used as a *start* in analysis. We refer to propositions of policy having to do with changes in necessarily continuing systems, as taxation, education, railways, water, light and power utilities, sanitation, etc. Here are problems that cannot be dropped. Here are enterprises that *are to be kept going* on some basis or other. In such questions we may well start an analysis on the basis of two "stock issues." The phraseology may differ—the points are essentially the same. Various wordings of each are given:

1. Is the present unsatisfactory? Are there evils in the existing situation? Is there a cause for action? Is there a disease? Do we need a change? etc.

2. Is the proposed action an improvement? Will it

[1] See *The Special Issues*, by J. R. Pelsma, and *Formulas for the Special Issue*, by H. B. Gough, *The Public Speaking Review*, Vol. III, No. 3 (Nov., 1913), pp. 1–8.

cure the evils? Is this the action we should take? Is this the proper remedy? Is the proposed change the right one?

New systems will not be adopted while the present is satisfactory, nor unless the proposed scheme looks like a satisfactory remedy or improvement. So the man with a new scheme for doing something that is to continue to be done on *some* scheme, must always show somehow or other (or get it admitted) that there is something wrong and his scheme will make it right.

Why then are these not really the exact issues in all such cases? For two reasons it is unsafe to accept them as such. *First*, because analysis may show a *more specific and concrete wording* for these general questions, and this will aid in many ways. *Second*, and principally, because on accurate analysis it may be found that one of these questions, especially number two, will break up into say three questions, *each of which* must be proved by the affirmative. So each is an issue, and we have a case of four issues instead of two. For example, suppose the proposition deals with a new city water system. We take the first stock issue and find out how specifically we can express this. It results in one question, perhaps, (1) Is the present water supply insufficient? Then analysis of the situation may show three questions *each of which* must be affirmatively answered or the whole scheme fails—These three for instance, (1) Is the proposed supply sufficient? (2) Is it pure? (3) Can we afford to get it? So in this case we find four actual issues, instead of two. If the negative block one of the four the affirmative loses.

Notice, however, that it is not sufficient to be able tc break up a big question into three or four small ones; *each small one must be absolutely vital, or it is no issue.* For instance, suppose a big question hit upon under some question, to be: Is this proposed method financially advantageous? Later it is found that this is to be settled by answering these: (a) Will it increase the sales? (b) Will it permit cheaper raw material? (c) Will it lower the cost of advertising? Are

these the issues? Clearly not, because each is not *necessarily vital.* The affirmative could lose one (any one) and win, if the total left were enough. It is the total result of these three factors taken together that is the issue. These might well be main points, points in partition, and might all be bitterly fought, but they are *not issues.* The big question of financial advantage which these go to prove is the issue.

## II. Finding the Issues

So much for the nature of the issues. We now have to consider the problem of finding them. (While we usually refer to the issues rather than to the issue it must be remembered that often we have but *one issue.*) This problem varies in difficulty under different propositions. In many propositions the issues are obvious. All we need to know to discover them is the nature of issues. They are there in sight; we have only to recognize them. In other propositions the problem of analysis is a long and difficult one. For such cases it is well to have in mind specific methods or plans of action. But it must be admitted, and always remembered, that *there is no one method that should always be applied in all its details* to any case that is to be analyzed. The steps suggested in the following pages should be taken in any case as far as is necessary to discover the issues. And tentative issues that we have discovered, or points claimed by our opponents as issues may be tested by the processes here enumerated. If one has to analyze a question about which he knows practically nothing, following all of these steps in the order presented, will discover the issues. But such cases occur rarely. The right thing is to understand the whole system and use whatever part of it seems useful in any particular case.

**A. Think.** The first thing to do in any case is to *think.* This must always be done. Careful thinking will disclose the issues in many cases. Think the proposition over from

all angles. Ask yourself all sorts of questions about it. Who wants this? Why? Whose business is it? Who will pay for it? Who will suffer by it? Who will profit by it? What kind of question is it? What interests are at stake? Economic? Moral? Æsthetic? Social? Political? Commercial? Industrial? Spiritual? Educational? Religious? Literary? Artistic? Which one of these terms, some of which are overlapping or practically synonymous, best characterizes this question? What standards within this field must we be guided by? What do the terms used mean? How many interpretations could possibly be put on this proposition? Which one best fits the particular circumstances?

**B. Study. 1. History.** The next step, and one that your thinking will naturally lead you to, is *study*. If we do not already know we must study the meanings that may be attributed to the terms and to the proposition as a whole. As issues may differ with different propositions, in order to find our particular issues we must learn what interpretation to take and what its vital points are by studying (1) the history of the question with special attention to (a) its origin and (b) the occasion for the present discussion. The nature of any controversy must depend largely upon the circumstances of its birth or the causes of its present importance.

The following is an excellent illustration of finding the issues, taken from the argument by Daniel Webster before the Supreme Court in the case of Luther *vs.* Borden. The events that gave rise to this case occurred in Rhode Island in 1841–42 and were what was popularly known as the Dorr Rebellion. Mr. Webster began:—

"It is well known that in the years 1841 and 1842 political agitation existed in Rhode Island. Some of the citizens of that State undertook to form a new constitution of government, beginning their proceedings toward that end by meetings of the people, held without authority of law, and conducting those proceedings through such forms as led them, in 1842, to say that they had established a new constitution and form of government, and placed Mr. Thomas

W. Dorr at its head. . . . All will remember that the state of things approached if not actual conflict between men in arms, at least the 'perilous edge of battle.' In June, 1842, this agitation subsided. The new government, as it called itself, disappeared from the scene of action. The former government, the Charter government, as it was sometimes styled, resumed undisputed control, went on in its ordinary course, and the peace of the State was restored.

"But the past had been too serious to be forgotten. The legislature of the State had, at an early stage of the troubles, found it necessary to enact special laws for the punishment of the persons concerned in these proceedings. It defined the crime of treason, as well as smaller offences, and authorized the declaration of martial law. . . . This having been done, and the ephemeral government of Mr. Dorr having disappeared, the grand juries of the State found indictments against several persons for having disturbed the peace of the State, and one against Dorr himself for treason. This indictment came on in the Supreme Court of Rhode Island in 1844, before a tribunal admitted on all hands to be the legal judicature of the State. He was tried by a jury of Rhode Island, above all objection, and after all challenge. By that jury, under the instructions of the court, he was convicted of treason, and sentenced to imprisonment for life.

"Now that an action is brought in the courts of the United States, and before your honors, by appeal, . . . it is alleged that Mr. Dorr, instead of being a traitor or an insurrectionist, was the real governor of the State at the time; that the force used by him was exercised in defence of the constitution and laws, and not against them; that he who opposed the constituted authorities was not Mr. Dorr but Governor King; and that it was he who should have been indicted, and tried, and sentenced." [1]

**2. All phases.** But a study of the origin and history of the question may not reveal the issues. In many propositions and complicated problems we must go further and study (2) all phases of the present situation. Very often issues cannot be found without a complete understanding of the proposition in all its phases. The phase that is, on hasty

[1] *The Works of Daniel Webster*, Vol. VI, pp. 217–219.

judgment, passed over as seemingly insignificant often develops with careful scrutiny into some new line of thought and discloses a new and vital issue. We must not consider the economic phase of the question to the exclusion of the ethical or æsthetic phases. If a question has a moral phase and physical phase, an educational phase and a political phase, we must study them all. Nothing that is relevant can safely be ignored, however much it may seem a matter of detail. The question must be thoroughly understood in all its phases before any attempt is made to state the issues.

**3. Both sides.** Akin to this study of all the phases and points of view is the necessity of studying (3) both sides of the question. With a knowledge of only his own side, a disputant may invent some points that he decides he will prove; but he cannot know the real issues. The issues are always the points on which there is a conflict of opinion. To determine where this conflict is, he must obviously know what his opponents maintain, what they are willing to admit, and what they deny. Consequently there is nothing that will help more to reveal the critical points in any discussion than to compare the arguments advanced by the conflicting sides.

**C. Exclude (1) Admitted matter.** When we have gained the proper knowledge of all the facts, the process is then a process of exclusion and selection. The next step to take then is to exclude (1) admitted matter. Clearly, if both sides admit the truth of a certain idea, that idea cannot be a critical point. The clash of opinion cannot arise from such a point. By excluding such facts as these, we can narrow the material down to the significant facts, which only are valuable.

This is a method often used by great lawyers and deliberative orators. Mr. William Wirt, in the case of Gibbons *vs.* Ogden, finds the issues of the case by first excluding the matters that may be admitted by either side. The legislature of New York had granted to Robert Fulton and others cer-

tain exclusive rights of navigation on the waters of the State. Mr. Wirt, in his speech, was endeavoring to prove the grant to be unconstitutional. He began:—

"In discussing this question, the general principles assumed as postulates on the other side may be, for the most part, admitted. Thus it may be admitted, that by force of the Declaration of Independence each State became sovereign; that they were, then, independent of each other; that by virtue of their separate sovereignty they had each full power to levy war, to make peace, to establish and regulate commerce, to encourage the arts, and generally to perform all other acts of sovereignty. I shall also concede that the government of the United States is one of delegated powers, and that it is one of enumerated powers, as contended for by the counsel for the correspondent. . . .

"The peculiar rule of construction demanded for those powers may also be conceded. But the express powers are to be strictly construed; the implied powers are to be construed liberally. By this it is understood to be meant, that Congress can do no more than they are expressly authorized to do; though the means of doing it are left to their discretion, under no other limit than that they shall be necessary and proper to the end." [1]

It is often a help when we cannot know the minds of our opponents to ask this very question: Can the other side afford to admit this fact? It was in this way that Webster, in the famous White murder trial, established one of his issues in the face of the contradictions of the opposing counsel.

"The counsel say that they might safely admit that Richard Crowninshield, Jr., was the perpetrator of this murder. But how could they safely admit that? If that were admitted, everything else would follow. For why should Richard Crowninshield, Jr., kill Mr. White? He was not his heir, nor his devisee; nor was he his enemy. What could be his motive? If Richard Crowninshield, Jr., killed Mr. White, he did it at some one's procurement who himself had a motive. And who, having a motive, is shown to have had any intercourse with Richard Crowninshield, Jr., but Joseph

[1] 9 Wheaton, 160.

Knapp, and this principally through the agency of the prisoner at the bar? . . . He who believes, on this evidence, that Richard Crowninshield, Jr., was the immediate murderer cannot doubt that both the Knapps were conspirators in that murder. . . . The admission of so important and so connected a fact would render it impossible to contend further against the proof of the entire conspiracy as we state it."

**(2) Irrelevant and (3) unimportant matter.** We must exclude from the material in which we will find the issues (though not necessarily from any use) not only admitted matter, but also (2) irrelevant, and (3) unimportant matter. There are many ideas and facts that are commonly associated with the proposition which do not really have any logical bearing on it. These should be carefully put aside at the outset. Then again, there are many other facts which are properly embraced within the meaning of the question which may be very valuable as evidence to prove other facts, but which manifestly are not important in themselves. For instance, in a civil suit for damages in a court of law the honesty or the intelligence of a witness might, under some circumstances, become very significant, the establishment of some vital point depending upon his reliability. Yet the character of this witness would not be mentioned in the pleadings as one of the issues, for his credibility is not important in itself, but only because of its effect upon some other and larger point in the case. In seeking the issues, the first step should be to exclude such facts as these, which are manifestly of only secondary importance.

The following, taken from Mr. Jeremiah S. Black's speech "In Defence of the Right of Trial by Jury," illustrates the effective use of this method. Here the speaker found his issues by the exclusion of irrelevant matter.

"The case before you presents but a single point and that an exceedingly plain one. It is not encumbered with any of those vexed questions that might be expected to arise out of a great war.

You are not called upon to decide what kind of rule a military commander may impose upon the inhabitants of a hostile country which he occupies as a conqueror, or what punishment he may inflict upon the soldiers of his own army or the followers of his camp; or yet how he may deal with civilians in a beleaguered city or other place in a state of actual siege which he is required to defend against a public enemy. The contest covers no such ground as that. The men whose acts we complain of erected themselves into a tribunal for the trial and punishment of citizens who were connected in no way whatever with the army or navy. And this they did in the midst of a community whose social and legal organization had never been disturbed by any war or insurrection, where the courts were wide open, where judicial process was executed every day without interruption, and where all the civil authorities, both State and National, were in the full exercise of their functions. . . .

"Keeping the character of the charges in mind, let us come at once to the simple question upon which the court below divided in opinion: Had the commissioners jurisdiction, were they invested with legal authority to try the relators and put them to death for the offence of which they were accused?" [1]

**4. Indirect.** Furthermore we must exclude from our issue material, regardless of its general relevancy or great importance, all (4) indirect matter including important subordinate issues. Every important and relevant fact that is denied or that cannot safely be admitted is not necessarily one of the issues. It may be a subordinate point, important only indirectly because the proof of it establishes or helps to establish some larger fact. In that case the larger fact, that the subordinate fact serves to prove, is one of the issues. Usually this discrimination between the issues and the subordinate points is not difficult. The issues are the points the proving of which directly proves the proposition itself; the proving of the subordinate points, on the other hand, helps to prove some larger fact, which larger fact in turn serves to prove the proposition. The issues are related directly to the

[1] *Great Speeches by Great Lawyers*, pp. 484, 485.

proposition; the "subordinate issues," indirectly. For an example, take the question: "Resolved: that labor unions should be compelled to incorporate." In the consideration of this question the fact would be emphasized that labor unions had very rarely broken their contracts with their employers in the past. This would clearly be only a subordinate point. It would not serve to establish the proposition directly; it would be significant only because it would help to establish the larger fact, that there was no occasion (no cause for action) for compelling the unions to incorporate. This last-mentioned point, on the other hand, would be one of the issues; it would be a vital fact not admitted by the opposing side, on which there was a clash of opinion, and it would stand in direct and immediate connection with the proposition.

**D. Select.** While this exclusion has been going on we have probably been selecting at the same time, saving out the opposites of the classes of points we have excluded. Our work, then, summed up positively, has been to select (1) points which meet the test of C: (a) points on which there is a direct clash of opinion (points that are not admitted—that our opponents probably will not admit), (b) relevant points, (c) important points, (d) direct (not indirect or subordinate) points. Our work is about done. These points are necessarily few and may constitute the issues just as they stand. There is one test which will determine this. Are all of these points *vital* to the establishment of the affirmative side of the proposition? We must select only *vital* points, from this small group. Can the affirmative side be established without establishing all of these points? If so, they are not all issues. If the affirmative can lose a point and still prove its case, that point is not an issue. When we reach this step in our analysis and find that the points we have selected will not pass this final test the difficulty is usually that the test for subordinate points and indirectness has not been strictly applied, and that we have three or four points under

a proposition in which there are only one or two issues. What we need is a point or two that will group these three or four and connect them to the proposition in a vital way.

Suppose the resolution proposes a new method or process in manufacture, in which there is no question of ethics, politics, social justice, or any such phase to complicate the issues, and suppose you have narrowed the points down to three—the new process will lessen the cost of raw material, will make unnecessary the paying of certain royalties now being paid, and will produce a valuable by-product. These points have passed your tests of importance, relevance, etc., and are all emphatically denied by your opponents. Are they issues? No; they are points in partition. There is not an issue among them, because no one of them is really vital. Suppose the negative shows that you will not lessen the cost of raw material—that this will remain unchanged. But you succeed in proving the saving on royalties and the gaining of a new by-product. Of course you have established your case—that the process should be adopted. Or suppose the negative wins on two of them and shows no change in regard to them, while you show a gain on one. Your case is established. These cannot then be issues. Each issue is so vital that if the affirmative fails to establish one of them the case fails. The difficulty here is that you are trying to get three issues where there is only one, viz., would this process bring a financial advantage. This is the issue. To establish the fact that this process should be adopted the affirmative must show financial advantage, and this may be shown in any possible way. There is only one issue. The difficulty arose from not applying the test for directness strictly enough.

Summary of method of finding the issues:

A. Think: On the proposition, its possible meaning, all its elements, and aspects, to the limits of your present knowledge.

B. Study: 1. History of question, with especial attention to
   a. Its origin,
   b. Present occasion for discussion.
   2. All phases of question.
   3. Both sides.

C. Exclude:
   1. Mutually admitted matter.
   2. Irrelevant matter.
   3. Unimportant matter.
   4. Indirect matter.

D. Select:
   1. Points which meet the test of C.
   2. Vital points.

## EXERCISE. CHAPTER 4

### THE ISSUES

1. Give the potential issues on each of three propositions on subjects used in Exercise 1, of Chapter 2.
2. Indicate under each of the propositions mentioned above which "potential issues" you would admit if you were in charge of the negative case.
3. Phrase propositions and under each give the most accurate phraseology possible for the "stock issues" on each of the following subjects: Military Preparedness; the Commission Form of Government for ——— city; State Universities.
4. Give accurately all the steps in analysis leading to the final statement of issues in the proposition for your original forensic.

## SECTION B. SELECTION

## CHAPTER 5

### GATHERING MATERIAL

### OUTLINE

A. Invention and selection.
B. Importance of preliminary reading.
C. Necessity of method.
D. A note-taking system.
E. Note-book or card system.
F. The card form.
G. Accuracy in documentation.
H. What to look for.
    1. Both sides.
    2. Arguments and evidence.
I. Where to look.
J. What plan to follow.
    1. Newspaper reading.
    2. The effective method.
        a. General conditions.
        b. Questions in dispute.
        c. Details of evidence.
K. What to do: assimilate.
L. The way to assimilate material.
M. Personality.
N. Conscious practice.

**A. Invention and selection.** In the discussion of the chapters under the head of Invention we have seen how a question must be analyzed in order (1) to understand what is the real *proposition* to be established, (2) and to understand how to handle the *burden of proof* in regard to it, and (3) to find out *the issues*, the vital ideas or matters of fact which must be established to establish this proposition. We next

come to a consideration of the means and methods to be employed in the work of advancing or opposing the establishment of these vital points, or issues, which have been discovered. As we shall see later, much depends on the methods by which we arrange our material and present it to the reader or hearer. But before we can arrange our proofs or present them, we must, obviously, take the various steps in the process of Selection, and so get the exact material to be used. This getting of material naturally divides itself into two parts: first, the *gathering of material* by preliminary reading or investigation; and second, the testing of the material we find, and the selection of those parts that will best serve our purpose in a given case. In the work of this second part we will be aided by a knowledge of *evidence*, *forms of arguments*, and *fallacies*—the topics treated in the next three chapters. Of course, in practice these steps in the process of selection are not always mutually exclusive. Usually we test and select, using our knowledge of evidence, arguments, and fallacies as we do our reading, and thus we choose or reject our material as we find it while we are gathering our evidence together.

**B. Importance of preliminary reading.** All argumentation which involves preparation of any kind involves a considerable amount of preliminary reading. The amount varies; but in most serious argumentative work the time thus spent is probably greater than that spent in all the other work of preparation taken together. The lawyer spends by far the greater part of his time in examining witnesses, documents, and authorities. The able senator or representative preparing for debate works longest and hardest in the collection of facts and figures. The intercollegiate debater labors for weeks in libraries to gather the materials for a twelve-minute speech. Surely a part of our work so fundamental and so arduous is worthy of the most careful consideration. It is of sufficient importance to demand that we adopt a clear and effective *method* of doing it.

**C. Necessity of method.** In the case of the beginner in argumentation, it must be admitted that a great deal of time is wasted here. To a man who has had no practical experience, there does not seem to be any particular need of method in reading. Newspapers, magazines, and encyclopædias all seem alike as long as he can find in them anything bearing on the question. His method commonly is to start in anywhere and read as long as he can. Inevitably he wastes many hours at the start on worthless material, and later, to make up the time, he rushes along over the best authorities with careless haste. Again, such a reader does not really comprehend or assimilate what he reads. He reaps a harvest of quotations from here and there, picks out a few points from this writer and that, and he thinks his preparation is complete. This inability to gather material intelligently is a serious weakness. A rational method is necessary. There must, of course, be individuality in all work of this kind; personality should everywhere be cultivated rather than repressed. But the principles given here have been engendered by common experience and are so capable of universal application that every man should follow them unless he is in a position to set them aside deliberately in favor of other specific principles that seem better fitted to his particular needs. They must not be violated through ignorance or carelessness.

**D. A note-taking system must be used.** It is a common mistake for a student to trust to his memory the safe-keeping of the ideas that he finds, with the almost inevitable result that, when called for, the ideas are not available. They either vanish and contribute nothing to the cause, or they must be sought anew at some future time at the cost of reduplicated work. Often it becomes necessary to verify some idea that has been suggested by some magazine article, or to reënforce it with some good authority, and the chances are strongly against the probability that the original article can be found again. It is an extraordinary memory that

can recall such a reference. Again, it is not always possible to tell at the beginning just what evidence will finally be valuable. Facts that seem trivial at the moment when we read them may turn out in the end to be important. But if no note is taken of them, they are almost surely lost. Against these and many other evils there is but one safeguard. A system of note-taking must always be used. Facts, ideas, arguments, illustrations, must be noted down in substance, or copied as full quotations, when they are discovered.

**E. A note-book or a card system may be used.** A note-book is perhaps easier to carry around, offers better facilities for copying long extracts and preserving clippings, etc., and binds all the material together in a single compact volume. But the card system offers great advantages in sorting, testing, organizing, using, and filing the material gathered. Unless there are specific reasons arising from the circumstances of a given case for using a note-book, the card system should be used. A few cards only need be available for each day's reading. The accumulated material may be kept carefully filed away in one place. When the time comes for drawing the brief, or preparing the written argument, the speech, or the debate, the cards can be easily sorted, and the best material can be quickly selected and arranged in proper order for use. All the material gathered on a given subject can be properly indexed and filed away for use at any future time.

**F. The card form** shown here is recommended. It provides for accurate recording of material, authority (writer or speaker), and source where this material was found. The advantages of having all the documentation at the top of the card, rather than at the bottom, are many. This makes it easier to refer to the cards in a filing case or card index, without loss of time and without disturbing the whole file. This also makes it easier to sort and handle them at a desk, and they are much more convenient for use on the platform in actual speaking or debate. It is easy to preserve permanently in immediately usable condition all the material one gathers

on such cards—and the store may grow *at any point* without disturbing the material on any other point. Cards may be removed or added on any sub-topic, as the material available changes from time to time. On the face of the card, of course, should be written (or pasted, if clippings are used) either exact quotations, paraphrases of the substance, or simply a characterization of the book, article, or speech referred to at the top of the card. A card four by six inches is very convenient; but a larger or smaller card will do about as well.

| TOPIC | AUTHORITY | SOURCE |
|---|---|---|
| *Effect on Workman's Health* | *Dr. John Smith, Chairman Blank Commission* | *Outlook, Vol. 20, p. 123* |

**G. Accuracy in documentation** [1] is essential. The exact authority and source should always be recorded. References to a "well known physician," a "physician writing in *The Outlook*", or to "*The Outlook*", or "*The Outlook*, Vol. 20," are all practically worthless. If you or others wish later to verify the reference it will be difficult to do so unless the original reference is exact. If you quote at all, quote accurately, and use quotation marks, and dots to indicate any words left out. Both in gathering and in using material *give credit* for all quotations, expressions, and even ideas and illustrations that are borrowed directly from a definite source. In gathering material it is well to copy direct quotations very

[1] See *Documentation and Argument from Authority*, Ch. 6.

freely. But in the process of making up your case you should make the thought of most of the quotations a part of your thought, and so use few direct quotations in the presentation of your argument, except where you think added advantage comes from giving the exact words of some recognized authority on the subject being treated—as for instance the quotations in this text from well-known writers on logic, law, etc.

Having realized the necessity of making an investigation, and having adopted a method of note-taking, the student who has an argument to prepare may then well ask four questions: What shall I look for? Where shall I look? What plan of search shall I follow? What shall I do with the material I gather?

**H. What to look for. 1. Understanding both sides.** The broad general answer to this first question is that the investigator must look for material that will enable him to understand *both sides* of his question. To know both sides of the question thoroughly is of great value in all stages of argumentation. In the first place, without such knowledge a disputant cannot have that *understanding of his case as a whole* which must precede the intelligent use of evidence and arguments. We have already seen that the first step in preparation, and one of the most important steps, is always the finding of the issues. But these issues cannot be found, nor the partition arranged, except by knowing both sides. The issues are always the points on which there is a direct clash of opinion, and frequently these points can be found only by comparing the assertions of the opposing parties and ascertaining just where these assertions are contradictory. The partition is a statement of the main points on which you are to base your attack on your opponent's case, and your defense of your own case against your opponent's attack. A partition arranged without knowledge of your opponent's case would obviously be quite useless. Again, a disputant who knows only the arguments on his own side of the case

may find himself helpless when *confronted with some unexpected argument* of his opponent. This inability to meet and repel an opponent is fatal to success in argumentation, and it must be guarded against in preparation. Such arguments are rarely to be answered by inspiration. Inspiration is not always reliable. The necessary knowledge must be gained before the actual crisis comes; and it can be gained only by studying the other side of the question and considering how any attack may best be met.

**2. Arguments and evidence.** A more specific answer to the first question mentioned above, is that the reader must usually look for two classes of material, which might be labeled arguments and evidence. First, the reader should find the point of view, the opinion, which the writer of any book or article takes of his subject as a whole, and also the points which he seems to regard as the critical points in the case, his reasons for his opinion, his *arguments* pro or con.

Second, the reader should look for *evidence*, facts stated, incidents cited, statistics given, illustrations used, or any quotable matter. These points and quotations should be noted as they rise. It is a common experience of a beginner that he passes over some idea or some apt quotation without taking note of it, to find that later if he only had it at hand it would be a valuable piece of evidence or a strong argument from authority. New *evidence* is valuable wherever it is found, and some note should always be taken of it. *Opinions*, on the other hand, are usually valuable only as they come from some writer who is a *recognized authority* on the subject. And it should be borne in mind that as to who is a recognized authority the audience is always the final judge. No matter how great the knowledge of any writer, if he is unknown to the audience or doubted by them, the quotation ceases to have value as an "argument from authority." But while reading the words of a writer of acknowledged standing, the note-book should be freely used. The quotation may be taken down in full, or some reference may be

noted to the place where it is found; but it must not be suffered to escape entirely.

**I. Where to look.** The question "Where shall I look?" will probably not bother many students in colleges and universities. Those who have a good library available will turn at once to *published bibliographies, card indexes,* and such monthly and annual indexes as *The Readers Guide, Poole's Index,* and *The Annual Library Index.* Those who cannot immediately command the facilities of a large library, or who for any reason want more specific suggestions on sources of material for argument, should write to University Extension divisions, public libraries, etc.

**J. What plan to follow.** The question of a plan to be followed in the use of various sources demands fuller consideration. The correct principle to follow is undoubtedly to read *from the general to the specific.* A lawyer preparing his case for court begins his examination of witnesses with the examination of his client. With his story as a foundation he then goes on to seek the lesser details that he needs to "fill in" his case. He knows that to begin with the testimony of his lesser witnesses would result in a confusion and waste of time. He might find that the testimony he had spent hours in seeking was more easily found elsewhere, or that, after all, it was of no service to the cause of his client.

**1. Newspaper reading.** The principle applies with equal force in the search for evidence by preliminary reading in general argumentation. For example, the American newspaper is a valuable source of material. Few are the discussions where it cannot be used with effect, if it is used properly. But in most cases it should be handled as the lawyer would handle the witness who testified that the defendant, on a certain day and hour, came to a certain livery stable and hired a certain horse and carriage. Such evidence might hang a man; the whole question of the guilt of a murderer might depend on the identification of that particular horse

and carriage. But that witness is not the first to be examined; it might happen that his testimony had no bearing on the case. The newspaper should be used in a similar way. It is valuable as a means of corroboration; it may be valuable as a source of facts for the support of some vital argument. But it should rarely be read first. Various dangers arise from such premature reading of the newspaper. In the first place, it would often mean a waste of time. A writer of acknowledged authority on a particular problem will put into a few lines the substance of the whole of a popular newspaper editorial. Again, the student who seeks such a lesser source first will find that he has spent time in gathering arguments and facts that better writers easily refute. More serious still, an investigator will often get from such a doubtful source false impressions that later reading cannot entirely efface. The work of preliminary reading, in this respect, is an exact analogy to the work of the architect or the contractor. What kind of judgment would it be on his part to plan his roof and windows before he knew the size of the house or the general style of its architecture? The writer who goes in search of newspaper facts before he knows the fundamental conditions of the problem in hand and the broad outlines of his case shows no better judgment.

**2. The effective method** is to begin the investigation with the reading of (a) books and magazine articles that give an understanding of the *general conditions* on which the question is founded. The understanding so gained is a touchstone by which all else may be tested. Next, take up (b) magazine articles or pamphlets bearing on the particular *question in dispute.* By this time the main ideas on which the proof must be founded gradually appear, and the case as a whole begins to assume a definite form. Finally, make a discriminating use of (c) such sources as the newspaper, to get *details of evidence* still needed in addition to that already gathered to support all points you wish to prove. It is only by following such a plan of reading as this that there can be

secured the three things most to be sought in the work of reading preliminary to arrangement and final presentation, viz.: (a) a grasp of the question as a whole; (b) an understanding of the vitally important points in the case; and (c) the getting of evidence that is relevant and reliable.

**K. What to do: assimilate.** Lastly in regard to the step we are now considering, the thing to do with the material gathered is to assimilate it. "Assimilation is the process by which plants and animals convert food into the various tissues of their own proper substance." When a man eats, if the food he takes is properly assimilated, it ceases to exist as food and becomes part of the man himself. So in argumentation, assimilation is the process by which the student converts the materials gathered from all sources into the fibers of his own finished arguments. We have stated in the preceding section that the first thing to be sought in the reading of any book or article is the point or points which the writer regards as vital in the case. Merely to seize upon these ideas, however, and force them bodily into the proof without change of form, would inevitably produce the same disastrous effects that would ensue if a man should eat without digestion. The proof would be weak and ill formed. It would be a mere jumble of facts and figures. The varied and inharmonious ideas of different men would be mixed together in confusion. The force of evidence that might be made convincing would be spent with no effect. To have strength and vitality in proof, the ideas and arguments of other writers and thinkers must be so fused with one another and with the ideas of the student himself, that the final product bears little if any resemblance to any one of the parts of which it is made; it is not the idea of this book or that, nor the idea of the reader, but an indivisible composite of all. Like the body, the proof is made of many kinds of substances, but it must itself be new and a distinctive unit.

**L. The way to assimilate material.** There is but one way in which material can be so assimilated. It must be

done *by the careful and constant thought* of the reader as he progresses, step by step. When one starts out to read on any subject, he nearly always has in his own mind some original conceptions of the question. In the first place, then, he should understand just what these conceptions are. Then, when in the course of his reading he finds some new idea, some new argument, he should *carefully compare* it with the contents of his own mind, and modify his own conceptions accordingly. The ideas that result will not be those he has read, nor will they be those he had originally: they will be new. This process must be kept up unremittingly. The material cannot be stored up for future assimilation any more safely than a man could postpone the digestion of his food. Each bit of material must be understood, compared, and assimilated when it first is discovered. The evidence gathered in this way ceases to exist in its various foreign forms. The ideas no longer overlap or conflict with one another. They fall into their proper places as parts of one working body.

**M. Personality.** Such a method also gives to the proof the invaluable quality of personality. Complete originality in argumentation is very rare. The most effective speech or essay often contains ideas and evidence that have become time-honored by their frequent usage. But the ideas are so altered by the personality of the author that they are made new. They take on fresh forms and colors and gather an original force. No quality is more valuable to charm or interest an audience than this quality of personality; and the personality that is forceful in argumentation is always attributable largely to the power of assimilation.

**N. Conscious practice.** This power is gained only by practice. It may well grow into an unconscious habit of mind; but the creation and development of it must always come from conscious self-training. The ability to assimilate is, of course, engendered and strengthened by other means than preliminary reading in argumentation. But nowhere is the

application of the power more practical or more important; and a student who is entering upon the serious pursuit of argumentation, however truly he may possess this quality of mind in general, will do well to watch himself for a time, lest he fall into other habits.

## EXERCISE. CHAPTER *5*

### GATHERING MATERIAL

1. Hand in at least twelve cards of notes gathered for use in your original forensic, carrying out accurately the suggestions and directions for note-taking on cards given in this chapter.

# CHAPTER 6

EVIDENCE

## OUTLINE

### I. The Nature of Evidence

A. Persuasion and conviction in evidence.
B. Proof.
C. Evidence.
D. Argument.
E. Evidence in law.
F. Evidence in general argumentation.
G. Sources of evidence.
H. Prejudiced witnesses.

### II. The Kinds of Evidence

A. Direct or circumstantial.
B. Written or unwritten.
C. Real or personal.
D. Original or unoriginal (hearsay).
E. Pre-appointed or casual.
F. Positive or negative.
G. Ordinary or expert.
    1. "Argument from authority."
    2. Documentation of sources not argument from authority.

### III. The Tests of Evidence

A. Tests of the quality of the evidence itself.
    1. Consistent with human nature?
    2. Consistent with known facts?
    3. Consistent with itself?
    4. Can it pass the hearsay test?
        a. In law courts.
        b. In general argumentation.

(I) The nature of the evidence itself.
(II) The channel through which it comes.
5. Is it exceptionally valuable?
a. Admissions against interest.
b. Casual or undesigned.
c. Negative.
d. Real.
B. Tests of the sources of evidence.
1. Ordinary ("fact") witnesses.
a. Physically qualified?
b. Mentally qualified?
(I) Memory.
(II) Accuracy.
(A) Thoughtless exaggeration.
c. Morally qualified?
(I) Unduly interested in case.
(II) General moral character.
d. Opportunity for getting the truth?
2. Expert ("Opinion") witnesses.
a. Opinion evidence needed?
b. Authority qualified?
c. Authority recognized?

## I. The Nature of Evidence

**A. Persuasion and conviction in evidence.** We now come to the consideration of the second of the two parts in the process of Selection, viz., the choosing from whatever materials we have been able to gather, of those facts, arguments, or appeals that will best serve our purpose in the case in hand. Here, as everywhere, we must remember the dual nature of all argumentation: our materials must be judged and chosen in accordance with the standards both of conviction and of persuasion. *Persuasion* requires that we consider the character, intelligence, and personal interests of our audience or readers, and the circumstances in which we are arguing, so that we may make use of the ideas and methods that will strike most directly and forcibly upon

the imagination and peculiar emotions of those we address. While evidence must be chosen primarily on the basis of its logical sufficiency, it is well always to consider also its persuasive possibilities. When a choice is possible between evidential facts, witnesses, groups of evidence, or methods of proof, that which will have the more persuasive effect should be chosen. But persuasion is a secondary consideration here. Nothing can be good evidence that does not qualify as a sound basis for conviction. *Conviction* requires that we understand what it is that constitutes the inherent strength of the various kinds of proofs, so that we may employ evidence and argument that will seem to the minds of others to be logically strong and accurate. Leaving the standards of persuasion to be discussed at a later time, let us now turn to the question: What are the inherent elements of strength and of weakness in the various kinds of proof?

**B. Proof** is the name used to designate "anything which serves, either immediately or mediately to convince the mind of the truth or falsity of any fact or proposition. . . . 'Proof' is also applied to the conviction generated in the mind by proof properly so called." [1] "The word proof . . . is applied by the most accurate logicians, to the *effect* of evidence, and not to the *medium* by which truth is established." [2] There is then substantial authority for using the word to designate that which convinces the mind or the conviction generated—the effect produced. The fact that both of these meanings are in common use should be borne in mind by all students of argumentation. It may save misunderstanding in debate. But constructively it is of little or no consequence which meaning we use. The "burden of proof" means the same whichever definition is used; and in our work under either we must consider the same subdivisions—(1) evidence, and (2) arguments.

**C. Evidence.** "The word evidence . . . is applied to that which tends to render evident or to generate proof.

[1] Best, p. 5. [2] Greenleaf, p. 3.

. . . Evidence, thus understood, has been well defined,—any matter of fact, the effect, tendency, or design of which is, to produce in the mind a persuasion, affirmative or disaffirmative, of the existence of some other matter of fact. The fact sought to be proved is termed the 'principal fact'; the fact which tends to establish it, 'the evidentiary fact.'[1] If A. is the 'principal fact' to be proved, and X the 'evidentiary fact,' *the evidence* offered, then the claim that X proves A is *an argument.* This distinction should be kept clear. "When one offers 'evidence,' . . . he offers, otherwise than by reference to what is already known, to prove a matter of fact which is to be used as a basis of inference to another matter of fact. . . . In giving evidence we are furnishing to a tribunal a new basis for reasoning. . . . The new element thus added is what we call evidence."[2] Evidence then consists of all the matters of fact that may be used in the generating of proof. It is the raw material from which the finished product, proof, is to be manufactured.

**D. Argument,** in its restricted meaning, is the name used to designate the process by which, from knowing the existence of one fact, or a certain number of facts, we infer the existence of other facts. This meaning of the word "argument" must not be confused with other meanings. The word may be used to refer to a finished discourse as a whole; it may refer to an entire debate or discussion; or, as here, it may mean simply a single process of reasoning. There is, perhaps, no better definition of an argument, in this sense, than Cardinal Newman's definition of reason, as "any process or act of the mind by which, from knowing one thing, it advances on to know another!" To continue the analogy of manufacturing, suggested in the last paragraph, argument is the process by which the raw material, evidence, is turned into the finished product, proof.

**E. Evidence in law.** Before discussing the classification and tests of evidence in general argumentation, we should

[1] Best, p. 6. [2] Thayer, pp. 263, 264.

have clearly in mind what legal evidence means as distinct from evidence as used in ordinary discussion outside of court trials. We should know the fundamental precepts and purposes of the law of evidence in order to understand, and to be able properly to apply, whatever borrowings we may make from this division of legal practice. A clear understanding of the law of evidence will show us why evidence in argumentation outside of law courts should not be rigidly subjected to the *legal* tests.

The law of evidence concerns itself with furnishing to courts matters of fact for their use in arriving at judicial decisions in regard to questions before them. In discharging their proper functions the courts of law are not engaged in academic discussions nor in the work of discovering and enforcing abstract truth or abstract justice. Their purpose is to settle disputes and award justice as fairly and accurately as may be under the limits imposed upon them, such as time, expense, etc., and by the use of such instrumentalities as are available for their employment. The law of evidence has developed to meet the requirements of this practical situation, and is not a set of rules to be followed outside of the courtroom, by those working upon questions which are not to be decided in courts of law.

The function of the law of evidence is set forth as follows by Professor Thayer:[1]

"(1) It prescribes the manner of presenting evidence; as by requiring that it shall be given in open court by one who personally knows the thing appearing in person, subject to cross-examination, or by allowing it to be given by deposition, taken in such and such a way; and the like. (2) It fixes the qualifications and the privilege of witnesses, and the mode of examining them. (3) And chiefly, it determines, as among probative matters, matters in their nature evidential,—what classes of things shall not be received. This excluding function is the characteristic one in our law of evidence."

[1] *Prel. Treat.*, p. 264.

The relevancy of a piece of evidence cannot be settled by law. Matters are relevant or not according to the tests of logic and general experience. The law of evidence simply says that under certain circumstances certain relevant evidence shall not be admitted. It consists of a set of excluding rules which exclude certain classes of relevant evidence, and consists further of certain exceptions to these rules, which admits subdivisions of classes of evidence excluded by the general rules. Strictly legal tests of evidence are not tests of logical relevancy, but tests of legal admissibility. The grounds upon which legal admissibility has been denied to certain classes of evidence are various. Some kinds of evidence are thought to be of too little importance, in some the connection is too farfetched. Some kinds of evidence are excluded because it is feared their effects upon the juries would not be salutary; others are excluded on grounds of general public policy, etc., etc. It is well for the student of general argumentation to be as familiar as possible with the law of evidence in order to understand what use may properly be made outside of the courtrooms of suggestions to be drawn from rules which are rigidly enforced in the courts themselves.

**F. Evidence in general argumentation.** In brief then, in general argumentation we may have good evidence that would not be admitted in law courts. Relevancy, logical sufficiency, is what we demand of evidence outside of courts. But in law evidence must meet this test and then also meet the requirements of the law of evidence. There is no "law of evidence" as such outside of the courts. So the oft heard statement that such and such evidence "would not be admitted in any court in the country" has really very little force if the discussion is being carried on outside of a court. The rules of legal evidence have to do mainly with admissibility, while in general argumentation, where we have no rules of admissibility, we are concerned mainly with relevancy. However, while we do not exclude, it is probably well

to scrutinize very carefully in general argumentation evidence that courts have thought it best to exclude entirely from the consideration of juries. In order to be able to do this, on the one hand, and to be ready, on the other, to thwart whoever (either in ignorance or cunning) tries to apply in general discussion the excluding rules of the law courts, it is well to note carefully the references to the law of evidence, and to legal procedure which are given in this book.

**G. The sources of evidence.** Evidence which seems on its face to be credible, consistent, and convincing may be rendered of no account by an exposure of weakness in the source from whence it comes. The sources of evidence are three—persons, documents, and things. Persons are of course the most important source. The testimony of persons may of course be written as well as spoken. Not all written evidence is documentary. Books, magazine articles, etc., used in general argumentation should be used as the personal testimony of their authors. When a writer states in a book that a certain thing is true, this is personal testimony that the thing is true and documentary evidence that he stated that it was true. The person behind all personal testimony should be tested alike in written and oral evidence. As the term is used in this book "witness" covers both "speaker" and "writer." It may be said, however, that written testimony is less likely to contain such errors as are due to simple thoughtlessness. But in all cases the sources of evidence should be carefully examined. If it can be shown that the statements, however plausible, are mere careless assertions of unreliable persons, or that the testimony was given with some dishonest motive, its value is gone. So it is always necessary in selecting one's own proof or in attacking the proof of an opponent to know what kinds of witnesses give good evidence, and what kinds bad evidence. Looked at from the viewpoint of the sources from whence the evidence is derived, there are two kinds of evidence: (a) ordinary evidence, and (b) expert evidence. There are certain tests

that may be applied to all witnesses; these are the tests of the sources of ordinary evidence. Then the examination of the class of witnesses known as "experts" demands the application of certain additional tests.

**H. Prejudiced witnesses.** Before passing on to a consideration of the kinds of evidence and the tests of evidence, it may be well to state what the function of the witness is, to analyze his operations, and to give a warning concerning a big question that is important in connection with the testimony of all kinds of witnesses. A witness has to *gather* impressions, facts, information, and then *present* these to others. He must learn the truth and tell it. *A good witness must be capable and desirous of finding out or receiving the truth, and capable and desirous of reporting the truth.* The big question that we must ask in regard to each witness is "with what prejudice, if any, does he look upon the matter concerning which he is testifying?"

Prejudice, bias, self-interest, personal liking for one thing and dislike for another affects the *truth finding* as well as the *truth telling* of many men who are *desirous* of finding and telling nothing but the truth. It is to a great extent true that men (all men—and women—not simply the less intellectual) believe what they want to believe. They are *not capable* of finding the truth in regard to some things because they look at these things through colored glasses. What many honest men see, hear, and even taste, and smell, depends to a certain extent upon their prejudices. The solution of the difficulty thus presented is not to resolve not to use prejudiced witnesses, but to use the least prejudiced witnesses possible. To decline to receive or accept the testimony of prejudiced witnesses is to decline all testimony on most of the important questions of the day. Of course there are many mere questions of fact in which prejudices are of no account. But in general argumentation, in politics, economics, sociology, religion, literature, education, etc., most men who are discussing questions, writing articles, and books, have def-

inite opinions, beliefs, interests, and prejudices. This does not mean that we must disregard what they testify to, but that we must weigh their testimony with reference to their pre-conceived notions, and *always listen to the testimony on both sides.* Read what both the advocates and opponents of a certain measure find in the facts of a given event, and then draw your own conclusions as to the truth. Do not try to get the truth concerning something from those who are naturally prejudiced against it, and do not accept without comparison with the statements of opponents the testimony concerning something of those who are naturally prejudiced in its favor.

## II. The Kinds of Evidence

Evidence may be classified in a number of ways. Some of the divisions made are more or less arbitrary and there is slight disagreement among authorities, especially as to nomenclature. It is well worth while, however, to examine the commoner classifications and definitions at least to the extent of learning what is meant by the terms used.

**A. Direct or circumstantial.** The most common classification of evidence is into (1) direct and (2) indirect or circumstantial. "Evidence is either direct or indirect; according as the principal fact follows from the evidentiary—the *factum probandum* from the *factum probans*—immediately or by inference. In jurisprudence, however, *direct evidence* is commonly used in a secondary sense; viz., as limited to cases where the principal fact, or *factum probandum*, is attested direct by witnesses, things, or documents." [1]

In law, then, the term direct evidence is usually applied to the testimony of persons who *declare the existence of the fact in issue*, speaking from their own personal knowledge. The important factor is that these persons testify directly as to the existence of the fact in issue. The testimony is required to be based on their own personal knowledge by

[1] Best, pp. 15, 16.

the hearsay rule. The evidence would still be *direct* as distinct from *circumstantial* if the information were second-hand or "hearsay," but since as such it would normally be inadmissible in a law court, direct evidence in law is defined in terms which cover direct *original* evidence. "A witness testifies that he saw A inflict a mortal wound on B, of which he instantly died; this is a case of direct evidence." [1] If the witness testified that C told him that he (C) saw A kill B, the evidence would still be direct (i. e., not circumstantial) but it would be inadmissible as *hearsay* in law. Outside of law courts, however, we act on this kind of direct evidence every day. *Indirect or circumstantial evidence* [2] is "evidence of some other fact, or facts, from which, taken singly or collectively, the existence or nonexistence of the particular fact, or facts, in question, may be inferred as a necessary or probable consequence." [3] It is obviously impossible to classify evidence as direct or circumstantial until we know the "fact in issue" to determine which this evidence is advanced. If it immediately affirms or denies some fact from which an inference is made to the "fact in issue," it is circumstantial.

"If a witness testifies that a deceased person was shot with a pistol, and the wadding (used in this pistol) is found to be part of a letter addressed to the prisoner, the residue of which is discovered in his pocket," [4] that is indirect or circumstantial evidence. From the existence of these facts the jury may infer the guilt of the prisoner. "'Circumstantial evidence is either conclusive or presumptive: conclusive, where the connection between the principal and evidentiary facts—the *factum probandum* and *factum probans*—is a necessary consequence of the laws of Nature; presumptive, where it only rests on a greater or less degree of probability. In practice this latter is termed 'presumptive evidence'—obviously a secondary sense of the word; for direct evidence is in truth only presumptive, seeing that it rests on a presump-

[1] Greenleaf, p. 17.
[2] See *Presumptions of Fact*, ch. 3.
[3] Hughes, p. 1.
[4] Greenleaf, p. 17.

tion of the accuracy and veracity of witnesses, things, or documents." [1]

The *most effective* proof is gained by the use of these two kinds of evidence *in combination*. Direct evidence may be untrustworthy because of mistakes in the observation of the witness or because of prejudice. Circumstantial evidence may be inconclusive because of a possible ambiguity in the inferences to be drawn from it. But when the two kinds are used together, each confirming the other, the evidence becomes of the highest possible efficiency.

**B. Written or unwritten.** With respect to its form, we may classify evidence as: (1) written, and (2) unwritten. In the court of law a considerable part of the evidence is unwritten. It consists of the spoken testimony of witnesses, present before the judge or jury. In formal debate elsewhere, however, the evidence is largely written.[2] It is often akin in its nature to the spoken testimony of the courts, in that it expresses the beliefs of different persons as to the existence of certain facts. But the persons themselves are rarely present to express their beliefs orally. Their opinions are gathered from books, magazines, newspapers, and documents.

**C. Real or personal.** "Again, evidence is either (1) real or (2) personal.[3] By real evidence is meant evidence of

[1] Best, p. 16.

[2] See p. 86. *The Sources of Evidence*, this chapter.

[3] "Stephen's limitation of the term 'evidence' to (1) the statements of witnesses and (2) documents is too narrow. When, in a controversy between a tailor and his customer, involving the fit of a coat, the customer puts on the coat and wears it during the trial, as in Brown *vs.* Foster, 113 Mass. at p. 137, a basis of inference is supplied otherwise than by reasoning or statements, whether oral or written; and it seems impossible to deny to this the name of 'evidence.'

"It is what Bentham calls 'real evidence,' a phrase which imports a very valuable discrimination, when limited to that which is presented directly to the senses of the tribunal. It is not, practically, of much importance when divided further into 'reported real evidence,' etc. Best in his treatise, has confused the topic by following Bentham into this sort of refinement, over-

which any object belonging to the class of things is the source, persons also being included, in respect to such qualities as belong to them in common with things." [1] Real evidence is obtained when weapons or wounds are exhibited to the jury, or fences or railroad crossings are examined by them, or a person whose age or parentage is in issue appears before the jury to be *seen* by them. Real evidence, of course, cannot be hearsay. It is evidence presented directly to the senses of those who are to judge, without any interpretation by a person. The evidence speaks for itself. There is no "thought communication." It may of course be presented to any of the senses, sight, hearing, taste, smell, etc.

Personal evidence is that which is afforded by a human agent, either in the way of discourse, or by voluntary signs (made for the purpose of communicating thoughts). Evidence gained by observation (of the person of the witness) or that afforded by *involuntary* changes of countenance and deportment comes under the head of real evidence.[2] Whenever a witness communicates thought to a judge or jury either by spoken language or by signs, he is giving personal evidence; while if he *shows* the jury a wound, or that he can raise his arm by raising it for them to see, he is giving real evidence.

**D. Original and unoriginal.** A division of evidence that is important because under it we get one of the terms (hearsay) that we hear most about in discussions of evidence, is the division into (1) original and (2) unoriginal evidence. Original evidence is that "which has an independent probative force of its own; unoriginal, also called derivative, transmitted, or secondhand evidence, is that which derives its force from, through, or under some other." [3] Best gives five forms of unoriginal evidence, but these minute subdivisions are not of importance to the student of general

looking, probably, for the moment, the fact that Bentham, unlike himself, was engaged in a philosophical discussion and was not writing a law book." Footnote, Thayer, pp. 263, 264.

[1] Best, p. 16. [2] See Ibid. [3] Ibid., p. 17.

argumentation. For us it is substantially correct to say that unoriginal evidence means *hearsay* evidence.

*Hearsay* evidence is defined by Greenleaf [1] as "that kind of evidence which does not derive its value solely from the credit to be given to the witness himself, but rests also in part on the veracity and competency of some other person. . . . Its extrinsic weakness, its incompetency to satisfy the mind as to the existence of the fact, and the frauds that may be practised under its cover, combine to support the rule, that hearsay evidence is totally inadmissible." Hearsay evidence, in brief, is the evidence of persons who testify to the existence of some fact, on the ground that they have been informed of its existence by some other person. Hearsay evidence, of course, is always "personal," never "real." For the exceptions to the hearsay rule in law see Best, ch. IV.[2]

*In general argumentation.* What the courts exclude, argumentation elsewhere should treat with suspicion, but should not necessarily rule out. Courts must have rules that will apply to all alike. But we are not so bound in general argumentation. Of course, the hearsay evidence of the ignorant, the careless, the vicious, is worthless. But hearsay evidence coming through accurate, trained minds may be of such a character that it would be absurd to question it on the ground that it is hearsay. Secondhand evidence, however, is usually less convincing than original evidence. The testimony may be too many stages removed from the fact itself. An audience will often suspect that the arguer cannot or dare not produce the original authority. Again, it is too easily overthrown. If a reliable witness who has a first-hand knowledge can be brought to testify to any fact of a contradictory nature, the hearsay evidence is immediately brought to the ground.

Care must be taken not to confuse direct and original evidence. If A testifies that B said that he saw X kill Y, this is direct but hearsay. If A testifies that he saw X run-

[1] Pages 121, 122.

[2] Pp. 434–444.

ning away from the scene of the murder of Y at about the time Y must have been killed, this is original but circumstantial evidence that X murdered Y.

**E. Pre-appointed or casual.** Evidence may be divided into (1) pre-appointed evidence and (2) casual evidence. Wherever "the creation or preservation of an article of evidence has been, either to public or private minds, an object of solicitude, . . . (viz. in the view of its serving to give effect to a right, or enforce an obligation, on some future contingent occasion), the evidence so created and preserved comes under the notion of pre-appointed evidence." [1] Deeds, notes, written contracts, etc., are forms of written pre-appointed evidence. When a man arranges to have certain persons witness his words or actions in order that they may testify to what he said or did, we have unwritten pre-appointed evidence. Any evidence not coming under the head of pre-appointed evidence is casual or undesigned evidence. It is evidence that has been neither created nor preserved for the purpose of using it as evidence of the fact now being substantiated by it. This kind of evidence consists of testimony given by persons who, when they gave it, had no thought that it would ever be used as evidence in the case in question. Speaking for another purpose a person often lets fall a statement that is merely incidental. The value of such evidence lies in its freedom from the suspicion of any hidden motive. It is ingenuous and presumably honest. But it has very serious weakness. The testimony may well have been careless. The witness, thinking the assertion of slight importance, may have been indifferent as to its accuracy.

Mr. Webster, in the following selection from his argument in the White murder trial, enforced the value of some of his evidence by showing that it was undesigned:—

"Mr. Southwick swears all that a man can swear. He has the best means of judging that could be had at the time. He tells you

[1] Best, p. 18, quoted from 2 *Bentham Jud. Ev.*, 435.

that he left his father's house at half-past ten o'clock, and as he passed to his own house in Brown Street, he saw a man sitting on the steps of the rope-walk; that he passed him three times, and each time he held down his head, so that he did not see his face. That the man had on a cloak, which was not wrapped around him, and a glazed cap. That he took the man to be Frank Knapp at the time; that, when he went into his house, he told his wife that he thought it was Frank Knapp; that he knew him well, having known him from a boy. And his wife swears that he did so tell her when he came home. What could mislead this witness at the time? He was not then suspecting Frank Knapp of anything. He could not then be influenced by any prejudices. If you believe that the witness saw Frank Knapp in this position at this time, it proves the case." [1]

**F. Positive or negative.** This classification is important because of the peculiar nature and significance of what has long been called (especially by rhetoricians) "negative evidence." The term (1) positive evidence is rarely used. It is needed simply to balance the negative. Positive evidence is all actual evidence. (2) Negative evidence is the term applied to a *significant absence of evidence:* as for instance, the absence of signs of campfires, as *evidence* that campers have not preceded you along a certain trail; or the failure of a member of a dinner party to mention, while discussing the dinner later, that one of the guests died at the table of heart failure, as *evidence* that this did not happen.

Such negative testimony, or the testimony of silence—"the failure of the witness to mention a fact so striking that he must have noticed it had it occurred"—has often been mentioned by writers on argumentation as evidence of special value.[2] The legal writers on evidence make statements that seem at first quite contradictory. "Ordinarily a witness who testifies to an affirmation is entitled to credit in preference to one who testifies to a negative, because the latter

[1] *The Works of Daniel Webster,* Vol. VI, p. 90.

[2] See Baker and Huntington, p. 131, and Genung, *Prac. Rhet.,* p. 410.

may have forgotten what actually occurred, while it is impossible to remember what never existed." [1]

"Our old lawyers lay down broadly, 'It is a maxim in law that witnesses cannot testify a negative, but an affirmative.' From these and similar expressions it has been rashly inferred, and is frequently asserted, that 'a negative is incapable of proof,'—a position wholly indefensible if understood in an unqualified sense. Nothing more was meant than to express the undoubted truth that, in the ordinary course of things, the burden of proof is not to be cast on the party who merely denies an assertion. The ground on which this rests has been already explained; and another grave objection to requiring proof of a simple negative is its *indefiniteness*. A person asserts that a certain event took place, not saying when, where, or under what circumstances; how am I to *disprove* that, and convince others that at no time, at no place, and under no circumstances, has such a thing occurred? The utmost that could possibly be done in most instances would be to show the improbability of the supposed event; and even this would usually require an enormous mass of presumptive evidence. Hence the well-known rule that *affirmative evidence is in general better than negative evidence*. But when the negative ceases to be a *simple* one,—when it is qualified by time, place, or circumstance,—much of this objection is removed; and proof of a negative may very reasonably be required when the qualifying circumstances are the direct matter in issue, or the affirmative is either probable in itself, or supported by a presumption, or peculiar means of proof are in the hands of the party asserting the negative." [2] These statements are not inconsistent. The legal writers make these remarks usually in connection with a discussion of the burden of proof. All sound thinkers agree that the affirmative (the affirmative on the substance of the proposition, regardless of form) has the burden of proof. So the courts insist on affirmative

[1] Greenleaf, note 1, p. 93. [2] Best, pp. 262, 263.

evidence, and do not require proof of a simple negative on account of its indefiniteness. But when we have a simple, definite, qualified denial, the case is quite different. And it is only in regard to questions sufficiently qualified in time, place, and circumstance that rhetoricians give special value to negative evidence or the testimony of silence—the absence of evidence where it would naturally be found if the statement made were true.

For instance, the absence of a man's name from the list of students published in a college catalogue is negative evidence that this man is not a student at this college. The failure of the newspapers of a certain city for the month of May, 1888, to mention a sensational murder trial alleged to have been held in that city during that month is negative evidence that no such trial took place. If we fail to find in the standard biographies of a man any reference to his having been elected to an important public office, it is safe to conclude that he never was so elected. The strength of this evidence is similar to that of casual evidence. It lies in the difficulty of "manufacturing" or manipulating it. The absence of evidence to support a claim where we have a right to expect it to be found if the claim is true, is in many cases more convincing than positive assertions. The common expression "If that were true, we would have heard about it" expresses the universal faith in negative evidence.

**G. Ordinary or expert.** Evidence may be classified as (1) ordinary and (2) expert. Most evidence is *ordinary*. This term covers all that is not *expert*. Expert testimony strictly speaking is called in law "opinion evidence" and in general argumentation "argument from authority." These two terms cover practically parallel things, and we will gain considerably in general argumentation if we understand the legal doctrine of "opinion evidence" and follow it in dealing with "argument from authority." In law the testimony of an "ordinary" witness is not always limited strictly to matters of fact. There are at times circumstances under which an

ordinary witness is allowed to testify in regard to matters of opinion, such for instance as his opinion regarding the "character" or the "sanity" of some other person. Also, there arise at times in law trials circumstances under which an "expert" witness testifies as to matters of fact rather than to matters of opinion. For instance, an expert chemist might very well testify as to matters of fact in the realm of chemistry, under which circumstances he could not be called strictly an "opinion" witness. However, the expert is usually asked to interpret facts which he or other witnesses establish, and this interpretation which is the expert's principal function usually is, of course, opinion evidence in law, or argument from authority in general argumentation.

Professor Thayer [1] has the following to say concerning expert witnesses:

"What is their function? It is just this, of judging facts and interpreting them. *They are called in because, being men of skill, they can interpret phenomena which other men cannot, or cannot safely, interpret.*[2] They 'judge' the phenomena, the appearances or facts which are presented to them, and testify to that which in truth these signify or really are; they estimate qualities and values. We say that they testify to opinion. In truth, they are 'judging' something, and testifying to their conclusion upon a matter of fact. It is perfectly well settled, in our law, and, as it would seem, elsewhere, that such opinions or judgments are merely those of a witness; they are simply to aid the final judges of fact, and not to bind them."

The ordinary witness testifies that a certain alleged fact is true because he actually observed it to be so; the expert testifies that the same alleged fact is true because certain other facts exist, and his peculiar and exceptional knowledge justifies him in inferring the existence of the fact in question. The ordinary witness in a law court is not allowed to express an *opinion* or even to use a word which shows his opinion.

[1] Page 196.

[2] Italics ours.

He must state what he saw, heard, etc., without characterizing it in any way. Under certain circumstances "experts" are called who are allowed to express opinions—or give opinion evidence.

*To take a simple illustration*, the question is whether a certain man who was shot and killed wore a certain coat on the day of the murder. The ordinary witness may testify that he saw the deceased near the place of the murder a short time before the deed, and that he was wearing the coat in question. The expert finds certain stains on the coat and with the aid of his exceptional knowledge of chemistry, he infers that the stains are blood stains and freshly made. This is his opinion. He is allowed to give this opinion to the jury. An ordinary witness may tell the jury that he saw A strike B in a certain manner. The expert can tell the jury whether such a blow would be fatal to a man in B's condition. Clearly in these cases the value of the testimony of the expert depends upon his special technical skill. This is always the primary test of expert evidence: Is the witness possessed of such knowledge that he will draw the correct conclusions from the facts presented to him? It is as a rule only when the expert is dealing with questions on which the layman cannot be expected to draw his own conclusions, that he is allowed to give opinion evidence; and until this point is reached he is only an ordinary witness, regardless of his position or reputation.

"As to the former (opinion evidence) it is traceable easily to the same source as the hearsay rule. . . . It was for the jury to form opinions, and draw inferences and conclusions, and not for the witness. He was merely to bring in to the jury, or the judge, the raw material of fact, on which their minds were to work. . . . The witness was not to say that he 'thought' or 'believed' so and so: it was for the jury to say what they thought and believed. The witness must say what he had 'seen and heard;' . . . In a sense all testimony to matter of fact is opinion evidence, i. e., it is a con-

clusion formed from phenomena and mental impressions. Yet that is not the way we talk in courts or in common life. Where shall the line be drawn? When does matter of fact first become matter of opinion? A difficult question; but some things are clear. There are questions which require special training and knowledge to answer them. . . . On such questions, then, the ordinary jury may be assisted by skilled witnesses, who give their opinions. . . . There is ground for saying that, in the main, any rule excluding opinion evidence is limited to cases where, in the judgment of the court, it will not be helpful to the jury. Whether accepted in terms or not, this view largely governs the administration of the rule." [1] Opinion evidence, then, is admissible in the courtroom when (a) a question for decision is such that to answer it requires special training, skill, ability, or experience—one which the ordinary layman is unable to answer without the help of someone who is specially prepared to understand such a question, (b) an expert is available to assist the jury whom (c) the court accepts as likely to be helpful to the jury in arriving at the decision.

**1. Argument from authority.** In general argumentation as we have said, this kind of evidence is what is known as the "argument from authority." This is a false name, for it is not properly an argument,—i. e., a process of reasoning,—but evidence. It consists in establishing a fact by quoting the opinion of some person whose knowledge is such as to justify the acceptance of his inferences as truthful. Now the legal procedure in this matter should be followed closely in all argumentation. This will, among other things, do away with one of the most stupid and harmful of the bad practices in contest debating—that of quoting alleged "authorities" on all sorts of questions. (a) The people quoted are usually not authorities—not experts—not people specially qualified to express opinions on the questions discussed, and (b) the questions on which the authorities are cited are not questions

[1] Thayer, p. 196.

which call for expert testimony. Very often they are plain, ordinary, everyday propositions on which all citizens are supposed to be qualified to pass judgment. (c) Moreover, authorities are rushed in without being so produced as to be accepted by anyone as authorities whose opinions might be helpful.

It must be remembered that a distinguished man is not necessarily an authority on any question on which he has expressed an opinion.[1] The fact that a man is a distinguished scientist gives him no standing as a critic of literature. Success in politics does not make a man an authority in education. Dramatists are not *per se* entitled to the privileges of opinion witnesses on questions of sociology; and the opinions of famous clergymen in the field of economics should usually be accorded the same good humored disregard that ought to greet the pronouncements of learned economists on questions of religion and theology. We are not saying that a man should have no opinions except in his special field of work—but simply that the fact that a man is an authority in one field does not make him *an authority in other fields.*

**2. Documentation of sources[2] not argument from authority.** Care should be taken to avoid the common error of treating all documentation of sources and identification of witnesses as arguments from authority. When a great jurist is quoted as saying that a certain law was passed in a certain state on a given date, he is an ordinary witness to be tested precisely as the farmer who testifies in regard to an accident on the highway. When the judge is quoted, and the place where his statement was found is given, the witness is identified, and the source of information documented, as should usually be done; but there is no expert testimony offered, no opinion evidence given, no comment from authority used. We have the latter situation when we quote the judge as saying that such and such a law would be unconstitutional.

The following is an example of argument from authority

[1] See *Argumentum ad verecundiam*, p. 193.

[2] See *Documentation of Sources*, ch. 5.

from the speech by Patrick Henry on "The Right of a State during the Revolution to Confiscate British Debts." In seeking to prove that the confiscation of British debts is warranted by necessity, he says:—

"The necessity being great and dreadful, you are warranted to lay hold of every atom of money within your reach, especially if it be the money of your *enemies*. It is prudent and necessary to strengthen yourselves and weaken your enemies. Vattel, Book 3d, ch. 8, sec. 138, says: 'The business of a just war being to suppress violence and injustice, it gives a right to compel by force him who is deaf to the voice of justice. It gives a right of doing against the enemy whatever is necessary for weakening him, for disabling him from making any further resistance in support of his injustice, and the most effectual, the most proper methods may be chosen, provided they have nothing odious, be not unlawful in themselves, or exploded by the law of nature.' Here let me pause for a moment and ask whether it be odious in itself or exploded by the law of nature to seize those debts?" [1]

## III. The Tests of Evidence

Very important for our purposes are the tests to be applied to determine the value of evidence. To know whether a piece of evidence is strong or weak is essential to the intelligent conduct of a case. We can use only a limited amount of all that we gather. We must have the power to discriminate. Then, too, we must know what is strong enough to be put in the forefront of the proof, and what is so weak as to be valuable only for the purpose of "filling in" and reënforcing the more important parts. For these purposes we have two vital tests of evidence: (A), the test of the *quality* of the evidence itself, and (B), the test of the *sources* from whence it comes. For convenience in our discussion, the sources of evidence will be referred to as "witnesses."

**A. Tests of the quality of the evidence itself. 1. Is the evidence consistent with human nature and human ex-**

[1] *Great Speeches by Great Lawyers*, p. 13.

perience? Any man properly hesitates to accept as a fact anything that runs contrary to his own past experience or the experience of his fellow-men. To make him believe in any evidence that contradicts the beliefs of his life and his habits of thinking requires explanation, enforcement, and substantiation that soon become an argument in themselves, and even then the unqualified acceptance of the proof may be a matter of doubt. If the evidence is in this way contrary to ordinary human experience, one must never neglect to maintain its truthfulness by explaining just why it is credible and valuable. Campbell, in his *Philosophy of Rhetoric* [1] expresses the situation, when he says: "From experience we learn to confine our belief in human testimony within the proper bounds. Hence we are taught to consider many attendant circumstances which serve . . . to corroborate . . . its evidence. The reputation of the attester, his manner of address, the nature of the fact attested, the occasion of giving the testimony, the possible or probable design in giving it and several other circumstances have considerable influence in fixing the degree of credibility." Evidence, then, should as far as possible be consistent with ordinary human experience and the natural course of affiairs. If it is of any extraordinary nature, its credibility must be shown before it will be of value or effect.

The weakness of evidence that is of an extraordinary nature and contrary to common experience, is exposed in the following selection from the speech by John Henry North in the case of Rex *vs.* Forbes and others. Mr. North's client was charged with committing criminal assault upon the Lord-lieutenant of Ireland. Testimony was given by a certain Dr. M'Namara, who said that he actually saw the defendant hurl a bottle at the Lord-lieutenant in a public theatre. Mr. North attacks testimony as follows:—

"The Doctor in the middle gallery sees Handwich in the third row of the upper one, though between them there were two benches

[1] P. 77.

covered with people, and the boarded parapet in front of the upper gallery besides! Through all these obstacles he sees him in that dark corner of the gallery where he represents him to be placed; sees him fling the bottle, and is now able, at this distance of time, to identify his person. The bottle itself he saw in what he learnedly calls its transit. A word or two on that same transit. I hold it physically impossible that a bottle could have taken the course described by Farrell and M'Namara, from the upper gallery to the stage, without being observed by four or five hundred spectators. Just think what the theatre is: a wide, illuminated area, whose bounding surfaces are studded with eyes as numerous as those of Argus. Not a square inch in that field of view which was not painted on the retina of some one eye or other in that vast assembly. Consider, too, the time—the interval between the play and farce—when the attention of the audience was not fixed upon the stage, when people were all looking about them, recognizing and greeting their friends and acquaintances. Was there no one to mark this bottle but Farrell, M'Namara, and the young medical student? What, not one giggling girl in the boxes, glancing round for admiration! not an operaglass pointed! no fortunate observer of the transit but the astronomer from Ballinakill! Is all this credible? But this is not all—voonders upon voonders, as the Dutchman said when he got to London—the greatest miracle is to come. Down comes the bottle, thundering from the upper gallery to the stage, and falls unbroken!" [1]

**2. Is the evidence consistent with known facts?** The necessity is evident of avoiding contradiction between different pieces of evidence presented in the proof, or between evidence presented and other well-known facts. Its discovery by an opponent or by the audience will ruin all confidence in the guilty person. The mistake of adducing evidence that is contradicted by the commonly known or easily proved facts of the question is illustrated by the following examples.

A few years ago in a trial of a civil suit the defendant was on the witness stand. He was seeking to establish an alibi. In the course of his testimony he was asked to tell of all his

[1] *Great Speeches by Great Lawyers*, p. 659.

movements and doings on a particular day. He told of several purchases he had made in the stores of the city, of his visit to a barber's shop, and of various other incidents. When this testimony was finished, the examining lawyer stated the simple fact that the day in question had been the day of the observance of President William McKinley's burial. Every shop and store had been closed. The testimony was not to be reconciled with the facts well known to the judge and the jury, and was discredited.

Webster used this test effectively in the White murder trial to overthrow the testimony of one of the witnesses of the defence:

"Balch says, that on the evening, whenever it was, he saw the prisoner; the prisoner told him he was going out of town on horseback, for a distance of about twenty minutes' drive, and that he was going to get a horse at Osborn's. This was about seven o'clock. At about nine, Balch says he saw the prisoner again, and was then told by him that he had had his ride, and had returned. Now it appears by Osborn's books, that the prisoner had a saddle-horse from his stable, not on Tuesday evening, the night of the murder, but on the Saturday evening previous. This fixes the time about which these young men testify, and is a complete answer and refutation of the attempted alibi on Tuesday evening." [1]

**3. Is the evidence consistent with itself?** Evidence that contradicts itself is of course the worst possible kind. Some answer may be made, some explanation given, to save the situation when one's evidence is shown to be inconsistent with human experience or known facts. Is human experience correct and complete in regard to the matter in question? Men are continually accepting beliefs that are inconsistent with the experiences of their fathers. Are the *known* facts really known or only *supposed?* Has there been a mistake? Must we abandon some of the presumably established facts in the light of new evidence? But when our evidence has an

[1] *The Works of Daniel Webster*, Vol. VI, p. 83.

inconsistency within itself we cannot escape without suffering some disadvantage. We cannot go outside and show the error is on the other side. There is something wrong with our own evidence, and when this is exposed by our opponent our cause has suffered more than would have been the case had we failed to meet any other test. Inconsistency in the disputant himself is unpardonable. So, when Oppius was charged with defrauding the soldiers of their pensions, Cicero refuted the charge by proving that the *same persons* charged Oppius with a design to corrupt the army with his extravagant gifts and liberality. So a man who in explaining irregularity in regard to advertising a certain function, based part of his case on the fact that a large crowd was neither expected nor desired because the patronage was a fixed and assured one, and based a second part of his case on the assertion that he had to do what was done in order to catch the public and get as large an attendance as was desired, lost greatly in the minds of the judges when this inconsistency was pointed out.

**4. Can the evidence pass the "hearsay" test?** a. *In the law courts*, of course, hearsay evidence is ruled out unless it comes under one of the recognized exceptions to the hearsay rule. (See Best *On Evidence.*)[1] But it is well to note that evidence may be hearsay and therefore inadmissible if offered to prove one thing, and original evidence and admissible if offered to prove another. Evidence is inadmissible as hearsay only when offered as evidence of the thing stated—of the truth of the remark made. For instance, W testifies, "I heard J say to B 'the horse is sound.'" This is hearsay evidence if offered to prove that the horse was sound. It is original evidence if offered to prove that J warranted the horse.

b. *In general argumentation*, as a matter of fact, hearsay evidence is often good. The question here is (1) whether the evidence itself is of such a nature that it may be safely passed from person to person with substantial accuracy, and (2)

[1] Pp. 434–444.

whether or not the channel through which the evidence comes is satisfactory. The reasons for excluding hearsay at all are: no chance for cross-examination of witness, witness not under oath, the opportunity of someone in the chain not saying what he meant, or someone not understanding correctly what was said. When by the mental and moral character of the persons forming the channel, and by the definite, clean-cut nature of the evidence itself, these objections are met, the fact that the evidence is hearsay amounts to very little. For instance, we would give little credence to a village story, vague "undocumented" rumor, or neighborhood gossip, in regard to the behavior of newcomers to a neighboring estate—people who would naturally be misunderstood and mistrusted by many of the villagers. But if the dean of X College announced in faculty meeting that the dean of Y College had said that the president of Y had telephoned that the governor had just vetoed a certain bill, the hearsay evidence would be accepted and acted upon without question.

**5. Is the evidence of a kind that is exceptionally valuable?** Under this head it is well to mention four kinds of evidence that have special value. We should keep these in mind when testing evidence—either our own or our opponents'.

a. *Admissions and declarations against interest.* These are the terms given in the courts to the testimony of persons contrary to what their own concern in the cause would suggest. This testimony is there regarded as of such importance and so free from doubt that secondhand evidence of such statements is made admissible,[1] contrary to the general rule excluding all hearsay evidence. When people make deliberate statements to their own disadvantage the statements are usually true, when people deliberately lie it is because they think the lie is to their advantage. Sometimes the admission or declaration is made when the person is aware of its damaging nature; sometimes, when unaware. Such testimony is ordinarily reliable; but there are exceptions.

[1] See Best, p. 440.

If the statement is made by a person unconscious of its effect on his own interests, we must be sure that it was not made carelessly, or under the influence of an intent to gain some other end. If it is a deliberate admission or confession, there may have been some hope of reward that led the witness to suffer a lesser evil for a greater gain; or the statement may have been given under compulsion. In either case its value is gone. But the presumption is always in favor of the trustworthiness of this kind of evidence. To take an example: a statement by any "protected" manufacturer that the tariff duties were too high—if such a thing were possible—would be a worthy bit of evidence. But if it could be proved that he was about to embark in some new enterprise where the tariff could not help him, that his purpose was the destruction of some greater rival, or that he was in the hire of a political manager, its force would be destroyed.

b. *Casual or undesigned evidence.* This kind of evidence, whose character has already been discussed, is specially valuable because of its freedom from suspicion.

c. *Negative evidence.* Negative evidence has also been fully explained. It is a third type that is generally considered especially valuable because it cannot be easily manufactured or "doctored." It is difficult to tamper with an absence of evidence. Though sometimes, of course, the significant absence may be artificially brought about.

d. *Real evidence.* If the nature of the controversy is such as to permit the use of real evidence this sort (already discussed) is of course much better than personal evidence to the same effect. When one can exhibit the condition of a wound, the ill fit of a coat, the dangerous condition of a bridge or railroad crossing, such exhibition will be better than oral descriptions of these things.

**B. Tests of the sources of evidence. 1. Tests of ordinary—"fact"—witnesses.**

**a. Is the witness physically qualified?** Most human knowledge comes through the avenues of the five senses, and

it is from the information so received that we get evidence. Clearly, then, the physical powers of a witness may have great influence upon his reliability. If a witness is color-blind, his testimony that green signal lights were displayed at the time and place of a railroad accident must be ignored. However, this test is not very common outside of the court-room. The writers that furnish the materials of student debate and of ordinary disputation everywhere are usually beyond the reach of such examination, and their testimony is not commonly of such a nature that it makes much difference whether they are blind, or deaf, or otherwise unfortunate physically. But whenever physical weakness may have any possible effect on the testimony, the test should be rigorously applied. It is one of the most effective of all possible tests, for such a defect in a witness is conclusive against his testimony.

**b. Is the witness mentally qualified?** More important for the purposes of general argumentation than the test of physical endowment is the test of mental powers.

(I) *Memory.* The test of the memory of a witness is applicable everywhere. In the courts, it is a part of the "stock in trade" of a cross-examiner. In ordinary argument it is less significant. A defective memory is damaging, because it raises a strong presumption of error in the statement of testimony. If the witness cannot remember things in general, it is probable that he cannot clearly remember about the particular fact in question. His impressions will probably be vague and indistinct, and so his statements will be unreliable.

In the White murder trial, Webster used this test in attacking a witness of the defence:—

"Mr. Burchmore says, to the best of his belief, it was the evening of the murder. Afterwards he attempts to speak positively, from recollecting that he mentioned the circumstance to William Peirce as he went to Mineral Spring on Fast-day. Last Monday morning

he told Colonel Putnam he could not fix the time. This witness stands in a much worse plight than either of the others. It is difficult to reconcile all he has said with any belief in the accuracy of his recollections." [1]

(II) *Accuracy of statement.* The accurate use of words and phrases is not by any means universal. We shall treat later of the different kinds of "liars"; but many mistakes of verbal expression are wholly undesigned. Provincial phrases, personal peculiarities in speech, a tendency toward exaggeration, may often lead a witness to say what he does not really mean. In getting written evidence, to avoid the mistake of misunderstanding the witness, the real import of the testimony should be gathered from the evidence as a whole rather than from the exact words of any particular sentences. Witnesses who are habitually inaccurate must, of course, be treated with suspicion. There are many writers whose practice it is to deal in generalities and bold over-statements. If a man has a reputation for that style of writing, his testimony is of little or no value; and, in any case his credibility is liable to question.

(A) *Thoughtless exaggeration.* Accidental or thoughtless exaggeration is very common in oral testimony, and arises from habits of mind in the witness. Some men have an irresistible impulse to "make things big," like Falstaff, with his "eleven men in buckram." Intentional exaggeration is simply one kind of deliberate lying. A witness who exaggerates can best be exposed by investigating his accuracy in other instances. Collins [2] uses this test in his argument to prove that Swift was not married to Esther Johnson, when, in speaking of one of the witnesses, a certain Dr. Madden, he says: "Of Madden it is sufficient to say that in temper and in blood he was half French, half Irish; and that as a writer he is chiefly known as the author of a work wilder and more

[1] *The Works of Daniel Webster*, Vol. VI, p. 83.
[2] *Jonathan Swift*, by J. C. Collins, ch. VI, pp. 146–157.

absurd than the wildest and most absurd of Whiston's prophecies and Asgill's paradoxes." If a witness habitually exaggerates, none of his statements can be accepted at their face value.

**c. Is the witness morally qualified?** *Deliberate perversion of the truth implies some motive. With an expert* the motive is most often that of pride. One expert is opposed to another in some court trial or perhaps on some economic question. Each feels that his reputation depends on the overthrow of his rival. Consequently, though they may begin with the most honest intentions, they yield to the demands of the occasion, their testimony degenerates into a spirited argument, and exaggeration and misrepresentation are bred. *With an ordinary witness* the motive is some interest in the question at issue. He feels some sympathy with the parties most deeply involved in the outcome, or he himself has some interest in the question at issue.

A witness must be tested with these possible weaknesses in view, in two respects: (I) *Is he unduly interested in the outcome?* and (II) *What is his general moral character?* This second test is significant, because it tells us to what extent the witness would permit unworthy motives to influence his words. A reputation for low moral character in a witness makes his testimony of little or no value.

This test is one of the most common in the courts. Rufus Choate gave a good illustration of its effectiveness in his speech in the Dalton divorce case. While attacking one of the leading witnesses of the plaintiff, he said:—

"I begin, therefore, with the foundation witness in this case, John H. Coburn, and I respectfully submit to you, that tried by every test of credibility which the law recognizes, on your oaths you are bound to disbelieve him. It is not that a laugh can be raised against Coburn or his testimony—that is nothing; it is that, according to those tests which are founded on the longest and widest experience the law deems satisfactory to show whether a jury can safely believe or not, he is not to be believed. I submit,

then, that John H. Coburn is not an honest man, and is not, therefore, entitled to be heard in so delicate a work as bringing every word my client spoke on that evening to her husband; he is not an honest man, and I put it on your solemn oath to you, that there is not a man on that jury who, on the exhibition of John H. Coburn, would intrust him to carry a bundle worth five dollars from this courthouse to the depot." [1]

**d. Did the witness have an opportunity for getting the truth?** This is an obvious and important test. If the situation or experience of the witness has been such that he has not had a chance to observe the existence of the facts to which he testifies, and to observe them closely and carefully, his statements are clearly untrustworthy. In the courts it is a common method of impeaching testimony to show that a witness was too far distant from the scene to see clearly, that he did not have time to observe carefully, or that he did not arrive in season.

This test is of first importance in all kinds of argumentation. Innumerable are the writers who are ready to venture the most positive statements on the foundation of a few weeks' investigation, or who carelessly make bold assertions of some general truth, when they have observed only a few phenomena, and when those they have observed are as likely as not to have been exceptional or sporadic in nature. It is not uncommon that an author or a traveller visits such a country as Russia for a few months or a year, and, on his return, writes articles or a book on Russian society, Russia's political methods, and her economic prospects. Now, such a man is not to be criticised for writing in the magazines or publishing a book; his narrative may well be interesting. But, *as evidence, his statements and prophecies generally amount to nothing;* Russian society and politics cannot be analyzed in a month. Again, how often we find newspaper writers and pamphleteers giving the most emphatic testimony to defects

[1] *Great Speeches by Great Lawyers*, p. 307.

in methods of colonial administration by their own government, when they have never ventured beyond the borders of their home states. Their earnestness may be good and their patriotism commendable, but their testimony is worthless. The opportunities for observation are insufficient to make good evidence.

**2. The tests of the sources of expert evidence.** This in general argumentation is testing the authorities in "arguments from authority." The "authority" used for the purpose of such argument or such evidence as this must bear three special tests:

a. *Is the case such as to make the introduction of opinion evidence—arguments from authority warrantable?* Do not offend your audience by giving the *opinions* of alleged authorities on questions on which the facts are available and understandable to any intelligent man. Do not ask A to believe a thing *because* B believes it, when A's opinion is just as good as B's. No authorities, no matter how good, should be used in questions to settle which opinion evidence is not *needed.*

b. Is the witness *possessed of the knowledge and experience necessary* to justify his acceptance as an expert in the matter in question?

c. *Is his authority recognized* by the audience or reader? However great the knowledge or skill of an expert, if his greatness is unknown to the hearer or reader, the effect of quoting him will be a mere "flash in the pan." The audience or reader will see in the pretended "authority" nothing more than a meaningless name, and so will ignore his statement. The disputant must always be sure that the worth of his expert is accepted; and if there may be any doubt, his first duty is to establish for him a satisfactory reputation.

## EXERCISE. CHAPTER 6

### EVIDENCE

1. Give an example of an item of evidence which shall be personal, circumstantial, and original.
2. Give an example of an item of evidence which shall be negative, real, circumstantial, and ordinary.
3. Give an example of an item of evidence which shall be direct, unwritten, hearsay, personal, and casual.
4. Give an example of an item of evidence which shall be negative, real, casual, and circumstantial.
5. Hand in a clipping or copy of an argument from current newspapers, magazines, lectures, or text-books, containing an argument from authority.
6. On evidence drawn from the sources mentioned in number five, containing ordinary evidence, apply all of the tests applicable to it, stating the results, and your final opinion as to the value of the evidence.

# CHAPTER 7

## KINDS OF ARGUMENTS

## OUTLINE

### I. In Logic

A. Deduction.
B. Induction.
    1. Real process of inference the same.
    2. Object: necessary connection according to some general principle.
    3. Mutual dependence.
    4. Kinds of induction:
        a. Perfect.
        b. Imperfect.
    5. Methods of induction.
        a. Agreement.
        b. Difference.
        c. Joint method.
        d. Residues.
        e. Concomitant variations.
C. The syllogism.
    1. The special rules of the syllogism.
    2. Definitions.
    3. Sorites.
    4. Inferences in quantitative relations.
    5. Enthymemes.
    6. The nature of syllogistic reasoning.
    7. The weakness of the syllogism in general argumentation.

### II. In Rhetoric

A. Antecedent probability.
    1. Effect to cause not a part of *a priori argument.*
    2. Methods of attack.

a. Connection complete?
b. Cause adequate?
c. Other causes present?
d. Substitute argument?

B. Sign.
1. Effect to cause.
a. Methods of attack.
(I) Some other cause?
(II) Cause capable?
(III) Connection complete?
2. Effect to effect.
a. Methods of attack.
(I) Those already given—used in combination.
3. Association of phenomena in past.
a. Association of phenomena and generalization.
b. Methods of attack.
(I) Cases too few?
(II) Contrary cases?
(III) Inconsistent?

C. Example.
1. Generalization.
a. Illustrative and argumentative examples.
b. Methods of attack.
(I) Fair specimens?
(II) Large enough part of field?
2. Analogy.
a. Figurative analogy.
b. Literal analogy.
(I) Generalization from a single instance.
c. Summary.
d. Methods of attack.
(I) Those of generalization for literal.
(II) False analogy for figurative.
3. Cause and effect in example.

**I. In logic.** Forms of arguments are classified and studied mainly from two points of view—Logic and Rhetoric. The difference already referred to between formal logic and argumentation is strongly marked in the methods em-

ployed by each in the treatment of the kinds of arguments, or, as the term is in logic, of "inferences." Logic explains the different ways in which the mind *may* work in making an inference or reasoning. Its purpose is to teach us to understand our own thought processes. In rhetoric or argumentation the purpose in discussing the methods of inference, or "the kinds of arguments," is to make clear the rules that *must* be followed in order to make arguments that will be valuable for the purpose of convincing and persuading *others*. It is not the mind of the speaker or writer that must be satisfied in argumentation, but the mind of the hearer or reader. For this purpose the necessity of knowing the various kinds of arguments that may be used is twofold; it is necessary (1) in order to be able to select and use the arguments that will be valuable in constructing one's own proof, and (2) in order to be able to attack the proofs of an opponent. In addition to these particular and practical advantages arising from a knowledge of the forms of argument, logical and rhetorical, there seems to be a more general and less definitely practical reason for studying all of the matters discussed in this chapter. That is that *anyone who is trained in argumentation should be familiar with the vocabulary of argument whether he ever makes practical use of it or not.* One who has had college or university training in argumentation ought to be able to understand the logical terms and methods here presented when they are used by others—even if he does not care to use them himself. With these purposes in mind, let us see what the logicians[1] can do to help us. Before

[1] In presenting material drawn from Logic in this chapter and in the chapter on Fallacies, it has been thought much better for many reasons to let the logicians speak for themselves. The following discussion is therefore taken almost entirely from the standard text-books of recognized authorities on logic (Jevons, Creighton, Bode, Hibben, Hyslop, Sidgwick). Great care has been exercised in choosing material that will best serve the purposes of students of argumentation. In all cases of quotations of any length, permission to use them has been obtained from the publishers, and has been acknowledged elsewhere. Here again I express my thanks. J. M. O'N.

considering the kinds of arguments as usually given in rhetoric or argumentation we should understand what logic has to say on the same subject under the heads of deduction, induction, and the syllogism.

**A. Deduction.** "There are two directions in which inference or reasoning may proceed. We may begin with certain facts or principles which are already known, or are assumed to be true, and proceed to show that some result necessarily follows from them. Thus we might infer that if the draughts of a stove are closed so that the supply of oxygen is lessened, the fire will burn slowly; or from the relative positions and revolutions of the planets, that an eclipse of the sun will take place on a specified day and hour. This method of reasoning is known as Deduction. It proceeds, as we have seen, from premises to conclusion. . . . In deductive reasoning the particular case is always brought under some general law or principle, which is already known or assumed as true. Socrates is known to be mortal, because as a man he falls under the general law that all men are mortal, the closing of the draughts is a case of lessened supply of oxygen, and, therefore, in accordance with the general law, a case of slow burning. A deductive inference shows what are the results of the application of a general law to particular facts or instances. It proceeds downwards, as it were, from the general law to its consequences.

**B. Induction.** "In Induction, on the contrary, the procedure is just the opposite of this. We begin with particular phenomena, and try to discover from them the law or principle which unites them. Certain facts are observed to happen together, and the problem is to find the ground or explanation of this connection. Inductive inference is thus a process of reading the general law out of the particular facts. It is an insight into the nature of the whole or system, based upon a careful examination of the parts. 'Yesterday the smoke tended to fall to the ground, and it rained in the afternoon.' These two facts may simply be observed a

number of times without any thought of their connection. But intelligence asks: Why should they happen in conjunction? And to answer this question, we must begin by analyzing the facts in our possession. When the smoke falls to the ground, the atmosphere must be lighter than usual; this is the case when it contains a great deal of moisture; but when the atmosphere is in this condition, it usually tends to discharge its moisture in the form of rain; therefore we have the general law which enables us to show that the behavior of the smoke and the rain yesterday were not only accidentally *conjoined*, but essentially *connected*.

**1. Real process of inference the same in deduction and induction.** "Deduction and Induction, then, are both forms of inference, but the starting-point and mode of procedure of the one is different from that of the other. Consequently, it is not unusual to speak of them as two *kinds* of reasoning which are quite distinct and independent of each other. It is, however, important to avoid this popular error, and to remember that the real process of inference is in each case the same. *The essence of inference*, as has been shown, consists in the fact that *it exhibits the manner in which particular facts are connected together into a system or whole.*[1] And this end is achieved both by Deduction and Induction. In the former case, the general law of connection—what we may call the nature of the system within which the particulars fall—is known, and we argue from this as to the nature and relations of the various parts which fall within it. We have the common thread which unites the various facts in our hand, and following it out are able to show its application in determining the nature of events which have not yet come within the range of our experience. Knowing the law of gravity, for example, one could infer deductively what momentum a ball weighing one pound must necessarily have after falling one hundred feet. It would not be necessary actually to measure the momentum of the falling body in

[1] Italics ours.

this particular case, but it could be shown to be the necessary result of the general law. What the deductive inference shows to us, is the way in which a general principle or law of connection runs through a group of facts, and constitutes them a real or organic whole. The same insight is reached by inductive inference, although the starting-point is entirely different. As we have already seen, induction begins by observing that certain phenomena are frequently conjoined, and attempts to discover some law or principle which will make the fact of their connection intelligible.

**2. Object: necessary connection of facts according to some general principle.** "It is usual to say that in induction we go from the particular facts to the general law. The following, however, would be a more correct form of statement: Before the inference, we observe that a number of phenomena occur together, but do not know whether this conjunction is necessary or not; or, if we assume that it is necessary, we do not understand why it should be so. As a result of the inductive inference, we gain an insight into the necessary connection of the observed phenomena, and also understand the principle according to which the latter are united. What we really obtain through an inductive inference is not only a general law, but also a perception of its concrete application to particular phenomena. This being so, it is clear that Induction and Deduction are not two different kinds of inference. *Inference always implies an effort on the part of the mind to see how phenomena are necessarily connected according to some general principle.*[1] And, in carrying out this purpose, the mind must begin with the knowledge which it already possesses. When the general law of connection is known, and the object is to discover the nature of some particular fact, the method of procedure is deductive. But, when the problem by which we are confronted is to read out of the facts of sense-perception the general law of their connection, the method of inference which must be employed

[1] Italics ours.

is that of induction. But from whatever point we set out, and whatever may be the immediate object of the inference, the result is always the same—an insight into the necessary connection of facts according to some general principle." [1]

**3. Mutual dependence.** "While considering the distinctions between induction and deduction, we must not overlook their mutual dependence. We cannot proceed in deduction irrespective of induction, because the universal upon which the deductive process is based arises in the majority of cases from a previous induction. It is true that the universal term may be in a proposition that is known *a priori*, as the axioms of geometry and certain space and time postulates; but a very small proportion of major premises can be said to have such an origin, and their resulting conclusions have very slight material significance. Deduction that reaches other than purely abstract and formal conclusions must rest upon induction for the material to form its premises. . . . On the other hand, induction is dependent upon deduction; for we cannot reason from particular instances to a universal proposition, unless we assume as the basis of the whole inductive process some postulate which has real universal significance. Otherwise, we reach only a high degree of probability, but not necessity; a rude generalization, but not universality. When we assert some such general statement as this, that arsenic always acts as a poison, we have based the universal character of the proposition upon an underlying postulate that is understood even though it is not expressed, such as the uniformity of nature, that under identical conditions we always look for identical effects. This is referred to at this point merely to illustrate the deductive basis of induction." [2]

**4. Kinds of induction.** "There are three different applications of the term 'Induction,' which are generally assumed to mean the same thing. To explain what they are we have to produce the usual divisions of the subject, which

[1] Creighton, pp. 329–333. [2] Hibben, pp. 172–173.

are the so-called kinds of induction. They are (a) '*Perfect Induction*' and (b) '*Imperfect Induction.*' The first meaning of the term applies to the first kind, and the other two are modifications of what is implied in imperfect induction. We would not suspect a difference of meaning from this general fact alone, but if we examine carefully the illustrations chosen to describe the nature of the process as thus distinguished into different kinds, we shall discern very clearly the great differences of real meaning attaching to the term. Thus 'Perfect Induction' is simply *an enumeration of the particulars which form a class.* It is the process which characterized the method of Socrates in reaching his definitions, and which Aristotle remarked was a new method compared with the argumentation of his predecessors. An example of perfect induction is the following: 'Mercury revolves on its axis; so do Venus, the Earth, Mars, Jupiter, Saturn, and Neptune. But these are all the planets, and therefore all the planets revolve on their axes." Although this is stated in the form of reasoning, it is not reasoning at all. This fact is apparent in the nature of the conclusion, which is that "All the planets revolve on *their* axis," not on the axis of Mercury, although the same thing would be true if we had said "on the axis of Mercury." But the special proof of its not being a case of reasoning is in the fact that the so-called conclusion is merely a universal statement of what had been enumerated in detail in the premises. We are supposed to have observed the individual fact that "Mercury revolves on its axis," and then again that "Venus revolves on its axis," and so on throughout the entire number of planets. Hence when we say, "All the planets revolve on their axes," we but universalize our particular observations—we use the terms "all planets" as an economical device to avoid repeating the proper name of each planet. But we do not infer anything, or reason from one proposition to another. We do not establish any new connections of thought by the process, as we do in syllogistic reasoning, . . . but we only generalize what we had observed

in detail. It is precisely the same with all enumerations of individuals or particulars into a whole or class with a general name denoting those enumerations only. They may be called "Inductions" if we choose so to name them; but they are not reasoning. They are only generalizations as opposed to or distinct from reasoning, while the term "Induction," as now used by logicians, denotes a process of inference or reasoning of some kind. It is quite generally agreed since the time of Bacon that the so-called "Perfect Induction" is not properly called "Induction," because it is not a mode of reasoning. It has been the name for the Socratic process of obtaining universal conceptions and definitions. But the contingencies of the growth of knowledge and the demand of a method which would take the place of the Aristotelian Logic suggested the term "Inductive" as opposed to "Deductive," and the rejection of "Perfect Induction" on the ground that it was not ratiocinative in its nature, implied that Induction must be a process of reasoning in order to compare it with Deduction.

"This second general meaning is the more important of the two, and was called 'Imperfect Induction' because *the conclusion contained more than the premises.* Thus if I had inferred that 'All the planets revolve about their axes,' from the mere fact that one of them did so, I should have drawn an inductive inference. I should not in this case have merely generalized the particulars of my observation or experience, but have conjectured or inferred that what was true of one case would turn out to be true of all the objects known upon other grounds to belong to the same class. But this conclusion has no definite certainty such as the mind desires, and hence to give this conjecture greater probability I must vary my observation of facts in connection with the several planets, and find whether they agree or disagree with my supposition. If, for instance, I observed that certain of them presented an absolutely invariable appearance, such as a particular spot always in sight and in the same place,

the fact would be at least a presumption against the supposition of the planet's axial revolution. On the other hand, if the spot presented certain regular changes of position and periodical disappearance and reappearance, the fact would be in favor of the hypothesis. This mode of repeating and varying observations or experiments in the case of the experimental sciences, according to certain methods, which are called the 'Method of Agreement,' the 'Method of Difference,' the 'Method of Concomitant Variations,' etc., has been called the *Inductive Method* in general, as a mode of ascertaining certain truths in a manner quite distinct from the ordinary syllogistic and deductive reasoning. This is the third meaning of the term, with which a theory of Induction has to reckon.[1]"

**5. Methods of induction.** "We have now to consider such methods as can be laid down for the purpose of guiding us in the search for general truths or laws of nature among the facts obtained by observation and experiment. Induction consists in inferring from particulars to generals, or detecting a general truth among its particular occurrences. But in physical science the truths to be discovered generally relate to the connection of cause and effect, and we usually call them *laws of causation* or *natural laws*.

"By the *Cause* of an event we mean the circumstances which must have preceded in order that the event should happen. Nor is it generally possible to say that an event has one single cause and no more. There are usually many different things, conditions or circumstances necessary to the production of an effect, and all of them must be considered causes or necessary parts of the cause. . . .

"By an *antecedent* we mean any thing, condition, or circumstance which exists before or, it may be, at the same time with an event or phenomenon. By a *consequent* we mean any thing, or circumstance, event, or phenomenon, which is different from any of the antecedents and follows after their

[1] Hyslop, pp. 295–298.

conjunction or putting together. It does not follow that an antecedent is a cause, because the effect might have happened without it. Thus the sun's light may be an antecedent to the burning of a house, but not the cause, because the house would burn equally well in the night. *A necessary or indispensable antecedent is* however *identical with a cause*, being that without which the effect would not take place.

"The word phenomenon will also be often used. It means simply *anything which appears*, and is therefore observed by the senses; the derivation of the word from the Greek word *φαινόμενον*, *that which appears*, exactly corresponds to its logical use.

**a. Method of agreement.** "The first method of induction is that which Mr. Mill has aptly called the method of agreement. It depends upon the rule that 'If two or more instances of the phenomenon under investigation have only one circumstance in common, the circumstance in which alone all the instances agree, is the cause (or effect) of the given phenomenon.' The meaning of this First Canon of inductive inquiry might, I think, be more briefly expressed by saying that *the sole invariable antecedent of a phenomenon is probably its cause.*

"To apply this method we must collect as many instances of the phenomenon as possible, and compare together their antecedents. Among these the causes will lie, but if we notice that certain antecedents are present or absent without appearing to affect the result, we conclude that they cannot be necessary antecedents. Hence it is the one antecedent or group of antecedents always present, when the effect follows, that we consider the cause. For example, bright prismatic colours are seen on bubbles, on films of tar floating upon water, on thin plates of mica, as also on cracks in glass, or between two pieces of glass pressed together. On examining all such cases they seem to agree in nothing but the presence of a very thin layer or plate, and it appears to make no appreciable difference of what kind of matter, solid, liquid

or gaseous, the plate is made. Hence we conclude that such colours are caused merely by the thinness of the plates, and this conclusion is proved true by the theory of the interference of light. Sir David Brewster beautifully proved in a similar way that the colours seen upon Mother-of-pearl are not caused by the nature of the substance, but by the form of the surface. He took impressions of the Mother-of-pearl in wax, and found that although the substance was entirely different the colours were exactly the same. And it was afterwards found that if a plate of metal had a surface marked by very fine close grooves, it would have iridescent colours like those of Mother-of-pearl. Hence it is evident that the form of the surface, which is the only invariable antecedent or condition requisite for the production of the colours must be their cause. . . .

**b. Method of difference.** "The second method of induction which we will now consider is known as the Method of Difference. It is stated in Mr. Mill's Second Canon as follows:—

"'If an instance in which the phenomenon under investigation occurs, and an instance in which it does not occur, have every circumstance in common save one, that one occurring only in the former; the circumstance in which alone the two instances differ, is the effect, or the cause, or an indispensable part of the cause, of the phenomenon.'

"In other words, we may say that the antecedent which is invariably present when the phenomenon follows, and invariably absent when it is absent, other circumstances remaining the same, is the cause of the phenomenon in those circumstances.

"Thus we can clearly prove that friction is one cause of heat, because when two sticks are rubbed together they become heated; when not rubbed they do not become heated. Sir Humphry Davy showed that even two pieces of ice when rubbed together in a vacuum produced heat as shown by their melting, and thus completely demonstrated that friction

is the source and cause of the heat. We prove that air is the cause of sound being communicated to our ears by striking a bell in the receiver of an air-pump, as Hawksbee first did in 1705, and then observing that when the receiver is full of air we hear the bell; when it contains little or no air we do not hear the bell. We learn that sodium or any of its compounds produces a spectrum having a bright yellow double line by noticing that there is no such line in the spectrum of light when sodium is not present, but that if the smallest quantity of sodium be thrown into the flame or other source of light, the bright yellow line instantly appears. Oxygen is the cause of respiration and life, because if an animal be put into a jar full of atmospheric air, from which the oxygen has been withdrawn, it soon becomes suffocated.

"This is essentially the great method of experiment and its utility depends upon the precaution of only *varying one circumstance at a time, all other circumstances being maintained just as they were.* . . .

"Beautiful instances of experiment according to this method are to be found, as Sir John Herschel has pointed out, in the researches by which Dr. Wells discovered the cause of the dew. If on a clear calm night a sheet or other covering be stretched a foot or two above the earth, so as to screen the ground below from the open sky, dew will be found on the grass around the screen but not beneath it. As the temperature and moistness of the air, and other circumstances are exactly the same, the open sky must be an indispensable antecedent of dew. The same experiment is indeed tried for us by nature, for if we make observations of dew during two nights which differ in nothing but the absence of clouds in one and their presence in the other, we shall find that the clear open sky is requisite to the formation of dew.

**c. Joint method.** "It may often happen that we cannot apply the method of difference perfectly by varying only one circumstance at a time. Thus we cannot, generally speaking, try the qualities of the same substance in the solid and liquid

condition without any other change of circumstances, because it is necessary to alter the temperature of the substance in order to liquefy or solidify it. The temperature might thus be the cause of what we attribute to the liquid or solid condition. Under such circumstances we have to resort to what Mr. Mill calls the joint method of agreement and difference, which consists in a double application of the method of agreement, first to a number of instances where an effect is produced, and secondly, to a number of quite different instances where the effect is not produced. It is clearly to be understood, however, that the negative instances differ in several circumstances from the positive ones; for if they differed only in one circumstance we might apply the simple method of difference. Iceland spar, for instance, has a curious power of rendering things seen through it apparently double. This phenomenon, called double refraction, also belongs to many other crystals; and we might at once prove it to be due to crystalline structure could we obtain any transparent substance crystallized and uncrystallized, but subject to no other alteration. We have, however, a pretty satisfactory proof by observing that uniform transparent uncrystallized substances agree in not possessing double refraction, and that crystalline substances, on the other hand, with certain exceptions, which are easily explained, agree in possessing the power in question. The principle of the joint method may be stated in the following rule, which is Mr. Mill's Third Canon:—

"'If two or more instances in which the phenomenon occurs have only one circumstance in common, while two or more instances in which it does not occur have nothing in common save the absence of that circumstance; the circumstance in which alone the two sets of instances (always or invariably) differ, is the effect, or the cause, or an indispensable part of the cause, of the phenomenon.'"

"I have inserted the words in parenthesis, as without them the canon seems to me to express exactly the opposite of what Mr. Mill intends. . . .

d. **Method of residues.** " We have now to consider a method of Induction which must be employed when several causes act at once and their effects are all blended together, producing a joint effect of the same kind as the separate effects. If in one experiment friction, combustion, compression, and electric action are all going on at once, each of these causes will produce quantities of heat which will be added together, and it will be difficult or impossible to say how much is due to each cause separately. We may call this a case of the homogeneous intermixture of effects, the name indicating that the joint effect is of the same kind as the separate effects. It is distinguished by Mr. Mill from cases of the heterogeneous intermixture of effects, where the joint effect is totally different in kind from the separate effects. Thus if we bend a bow too much it breaks instead of bending further; if we warm ice it soon ceases to rise in temperature and melts; if we warm water it rises in temperature homogeneously for a time but then suddenly ceases, and an effect of a totally different kind, the production of vapour, or possibly an explosion follows.

" Now when the joint effect is of a heterogeneous kind the method of difference is sufficient to ascertain the cause of its occurrence. Whether a bow or a spring will break with a given weight may easily be tried, and whether water will boil at a given temperature in any given state of the barometer may also be easily ascertained. But in the homogeneous intermixture of effects we have a more complicated task. There are several causes each producing a part of the effect, and we want to know how much is due to each. In this case we must employ a further Inductive Method, called by Mr. Mill the Method of Residues, thus stated in his Fourth Canon:—

" 'Subduct from any phenomenon such part as is known by previous inductions to be the effect of certain antecedents, and the residue of the phenomenon is the effect of the remaining antecedents.' "

" If we know that the joint effect a, b, c, is due to the causes

A, B, and C, and can prove that a is due to A and b to B, it follows that c must be due to C. There cannot be a simpler case of this than ascertaining the exact weight of any commodity in a cart by weighing the cart and load, and then subtracting the tare or weight of the cart alone, which had been previously ascertained. We can thus too ascertain how much of the spring tides is due to the attraction of the sun, provided we have previously determined the height of the tide due to the moon, which will be about the average height of the tides during the whole lunar month. Then subtracting the moon's tide the remainder is the sun's tide.

"Newton employed this method in a beautiful experiment to determine the elasticity of substances by allowing balls made of the substances to swing against each other, and then observing how far they rebounded compared with their original fall. But the loss of motion is due partly to imperfect elasticity and partly to the resistance of the air. He determined the amount of the latter effect in the simplest manner by allowing the balls to swing without striking each other, and observing how much each vibration was less than the last. In this way he was enabled to calculate the quantity that must be subtracted for the resistance of the air. . . .

**e. Method of concomitant variations.** "Every science and every question in science, is first a matter of fact only, then a matter of quantity. and by degrees becomes more and more precisely quantitative. Thirty years ago most of the phenomena of electricity and electro-magnetism were known merely as facts; now they can be for the most part exactly measured and calculated.

"As soon as phenomena can thus be measured we can apply a further Method of Induction of a very important character. It is the Method of Difference indeed applied under far more favourable circumstances, where every degree and quantity of a phenomenon gives us a new experiment and proof of connection between cause and effect. It may be called the Method of Concomitant Variations, and is thus

stated by Mr. Mill, in what he entitled the Fifth Canon of Induction.

"'Whatever phenomenon varies in any manner whenever another phenomenon varies in some particular manner, is either a cause or an effect of that phenomenon, or is connected with it through some fact of causation. . . .'

"The illustrations of this method are infinitely numerous. Thus Mr. Joule, of Manchester, conclusively proved that friction is a cause of heat by expending exact quantities of force in rubbing one substance against another, and showed that the heat produced was exactly greater or less in proportion as the force was greater or less. We can apply the method to many cases which had previously been treated by the simple method of difference; thus instead of striking a bell in a complete vacuum we can strike it with a very little air in the receiver of the air-pump, and we then hear a very faint sound, which increases or decreases every time we increase or decrease the density of the air. This experiment conclusively satisfies any person that air is the cause of the transmission of sound. . .

"The most extraordinary case of variations, however, consists in the connection which has of late years been shown to exist between the Aurora Borealis, magnetic storms, and the spots on the sun. It has only in the last thirty or forty years become known that the magnetic compass needle is subject at intervals to very slight but curious movements, and that at the same time there are usually natural currents of electricity produced in telegraph wires so as to interfere with the transmission of messages. These disturbances are known as magnetic storms, and are often observed to occur when a fine display of the Northern or Southern Lights is taking place in some part of the earth. Observations during many years have shown that these storms come to their worst at the end of every eleven years, the maximum taking place about the present year 1870, and then diminish in intensity until the next period of eleven years has passed.

Close observations of the sun during thirty or forty years have shown that the size and number of the dark spots, which are gigantic storms going on upon the sun's surface, increase and decrease exactly at the same periods of time as the magnetic storms upon the earth's surface. No one can doubt, then, that these strange phenomena are connected together, though the mode of the connection is quite unknown. It is now believed that the planets Jupiter, Saturn, Venus, and Mars, are the real causes of the disturbances; for Balfour Stewart and Warren de la Rue have shown that an exact correspondence exists between the motions of these planets and the periods of the sunspots. This is a most remarkable and extensive case of concomitant variations." [1]

**C. The syllogism.** "The name Syllogism means the joining together in thought of two propositions, and is derived from the Greek words *σύν*, with, and *λόγος*, thought or reason. It is thus exactly the equivalent of the word *computation*, which means thinking together (Latin *con*, together, *puto*, to think), or reckoning. In a syllogism we so unite in thought two premises, or propositions put forward, that we are enabled to draw from them or infer, by means of the middle term they contain, a third proposition called the conclusion. Syllogism may thus be defined as the act of thought by which from two given propositions we proceed to a third proposition, the truth of which necessarily follows from the truth of these given propositions. When the argument is fully expressed in language it is usual to call it concretely a syllogism.

**1. "The special rules of the syllogism . . .** serve to inform us exactly under what circumstances one proposition can be inferred from two other propositions, and are eight in number, as follows:—

a. *Every syllogism has three and only three terms.*

These terms are called the major term, the minor term, and the middle term.

[1] Jevons, *Lessons in Logic*, pp. 239–253.

b. *Every syllogism contains three, and only three propositions.* These propositions are called the major premise, the minor premise, and the conclusion.

c. *The middle term must be distributed once at least, and must not be ambiguous.*

d. *No term must be distributed in the conclusion which was not distributed in one of the premises.*

e. *From negative premises nothing can be inferred.*

f. *If one premise be negative, the conclusion must be negative;* and vice versa, *to prove a negative conclusion one of the premises must be negative.*

From the above rules may be deduced two subordinate rules, which it will nevertheless be convenient to state at once.

g. *From two particular premises no conclusion can be drawn.*

h. *If one premise be particular, the conclusion must be particular.*

"All these rules are of such extreme importance that it will be desirable for the student not only to acquire a perfect comprehension of their meaning and truth, but to commit them to memory. . . ."

**2. Definitions.** "The middle term may always be known by the fact that it does not occur in the conclusion. The major term is always the predicate of the conclusion, and the minor term the subject. . . .

"Again, the syllogism necessarily consists of a premise called the major premise, in which the major and middle terms are compared together; of a minor premise which similarly compares the minor and middle terms; and of a conclusion, which contains the major and minor terms only. In a strictly correct syllogism the major premise always stands before the minor premise, but in ordinary writing and speaking this rule is seldom observed; and that premise which contains the major term still continues to be the major premise, whatever may be its position.

"The third rule is a very important one, because many

fallacies arise from its neglect. By the middle term being *distributed* once at least, we mean that the whole of it must be referred to universally in one premise, if not both. The two propositions—

All Frenchmen are Europeans,
All Russians are Europeans,

do not distribute the middle term at all, because they are both affirmative propositions, which have undistributed predicates." [1]

**3. "Sorites or chain of reasoning.** A Sorites is a chain of reasoning in which the two terms of the conclusion are united through the mediation of more than one intervening or connecting term. It may assume either of the two following forms:

I

| | |
|---|---|
| A is B; | All negroes are men; |
| B is C; | All men are vertebrates; |
| C is D; | All vertebrates are animals; |
| D is E; | All animals are mortal; |
| ∴ A is E; | ∴ All negroes are mortal. |

II

| | |
|---|---|
| D is E; | All animals are mortal; |
| C is D; | All vertebrates are animals; |
| B is C; | All men are vertebrates; |
| A is B; | All negroes are men; |
| ∴ A is E; | ∴ All negroes are mortal. |

"It is possible to treat a Sorites as an abbreviated form of syllogistic inference, because the chain of reasoning may be resolved into a series of syllogisms, each of which, except the last, yields a conclusion that serves as a premise in the suc-

[1] Jevons, *Lessons in Logic*, pp. 127–129.

ceeding syllogism. From this point of view, the first of the above inferences is equivalent to three complete syllogisms, as follows:

I

| | | |
|---|---|---|
| B is C; | C is D | D is E; |
| A is B; | A is C | A is D; |
| ∴ A is C; | ∴ A is D. | ∴ A is E; |

**4. "Inferences in quantitative relations.** Certain inferences that deal with quantitative relations give valid conclusions, in spite of the fact that they seem to violate the rules of the syllogism. The following are examples:

I

A is greater than B;
B is greater than C;
∴ A is greater than C.

II

A is north of B;
B is north of C;
∴ A is north of C.

"In form these arguments are exactly the same as:

A is the landlord of B;
B is the landlord of C;
∴ A is the landlord of C.

Yet this latter conclusion does not follow from the premises. All of these syllogisms, it will be noticed, have four terms. What requires explanation, therefore, is the fact that, in spite of this apparent irregularity, it is possible to draw valid conclusions when the subject-matter concerns relations of quantity.

"The explanation of this fact is, in brief, that the valid

conclusions are possible because they rest upon a true major premise which does not appear in the argument. If A is north of B, and B is north of C, we can infer the relation of A and C, because we are familiar with the nature of space relations. To state the law or the generalization which underlies the inference is a matter of some difficulty. According to some writers the inference, in correct syllogistic form, would read about like this:

Whatever is north of that which is north of another is north of that other;

A is something that is north of that which is north of C;

∴ A is north of C.

"It is true that we never formulate the major premise of this inference, and that we usually do not even suspect its presence. But, as we shall see a little later, the suppression of one of our premises is a frequent occurrence in everyday reasoning. This major premise is not formulated, just because the relationship which it expresses is so simple and obvious. This relationship is peculiar to the realm of quantity, and so the recognition of this relationship enables us to make inferences in this realm which have no precise parallel in other fields." [1]

**5. Enthymemes.** "When one premise of an argument is lacking, the name of *enthymeme* is applied to it. When an argument is defective in this way, it must be remembered that the missing proposition is to be regarded as in consciousness, though not expressed. It is of great importance to form the habit of making clear to oneself the premises by which any conclusion claims to be supported. In this way groundless assumptions are often brought to light, and the weakness of an argument exposed." [2] "Indeed, it is but seldom in ordinary reasoning that we arrange our arguments in the strict syllogistic form. We hurry on from one fact to another in our thinking without stopping to make all the steps definite and explicit. We feel it to be a waste of time,

[1] Bode, pp. 78–80.

[2] Creighton, p. 41.

and a trial to the patience, to express what is clearly obvious, and so we press on to the conclusion which is, for the time being, the central point of interest. But the more rapid and abbreviated the reasoning, the more necessary is it to keep a clear head, and to understand what conclusion is aimed at, and what premises are assumed in the argument. To bring to light the hidden assumption upon which an argument is based, is often the best means of refuting it. Enthymemes are sometimes said to be of the first, second, or third order, according as the major premise, the minor premise, or the conclusion is wanting. As a matter of fact, an enthymeme of the third order is a rhetorical device used to call special attention to a conclusion which is perfectly obvious, although suppressed. Thus, for example, 'all boasters are cowards, and we have had proofs that A is a boaster.' Here the conclusion is at once obvious, and is even more prominent than if it were actually expressed." [1]

**6. The nature of syllogistic reasoning.** "The syllogism, as we have already seen, presents a conclusion together with the reasons by means of which it is supported. A single proposition taken by itself is dogmatic: it merely asserts without stating the grounds upon which it rests. The syllogism, on the other hand, justifies its conclusion by showing the premises from which it has been derived. It thus appeals to the reason of all men, and compels their assent. To do this, it is of course necessary that the truth of the premises to which appeal is made should be granted. If the premises are disputed or doubtful, the argument is pushed a step further back, and it is first necessary to show the grounds upon which these premises rest. The assumption of syllogistic reasoning—and, indeed, of all reasoning whatsoever—is that it is possible to reach propositions which every one will accept. There are certain facts, we say, well known and established, and these can always be appealed to in support of our conclusions. In syllogistic reasoning, then, we exhibit the inter-

[1] Creighton, pp. 126, 127.

dependence of propositions; i. e., we show how the truth of some new proposition, or some proposition not regarded as beyond question, follows necessarily from other propositions whose truth every one will admit." [1]

**7. Weakness of the syllogism in general argumentation.** But the man who wishes to be successful in general argumentation needs to be armed with more than a knowledge of the syllogism. While it is true that putting an argument into "syllogistic form" for the purpose of testing it is one of the easiest and most accurate ways of determining the strength or weakness of our argument (and of exactly locating any weakness), the warning in the following paragraph against depending upon the syllogism as a constructive device should be carefully heeded.

"For it tells us only what the soundness of inferences depends upon when we assume that the words in which they are expressed are free from ambiguity. In actual inferences this assumption is never strictly in accordance with the facts, and is least in accordance with them when the soundness of the inference is most debatable. That is the chief reason why an appeal to Syllogistic Logic is generally so unconvincing. Now that the direct inquiry into Nature is open to almost every one, almost every one has begun to learn that sharp-cut words are traps for the unwary. A syllogism can always be blocked by refusing to admit the truth of a premise, and in these times no special study of the forms of Syllogism is needed to show us in practice at any rate that the easiest and most effective way to do this is to criticise the words in which it is expressed. Where the conclusion is disputable there is seldom any difficulty in finding some want of definiteness in the premises, so that they can only combine to form a conclusion when one of them is interpreted in a sense which makes it untrue. To raise this objection—in however untechnical language—is to tell the syllogistic logician that his simple process is not yet available. The

[1] Creighton, pp. 105, 106.

real difficulty of the question has first to be settled, and then those who care to do so may put the reasoning into 'syllogistic form.'" [1]

**II. In rhetoric.** Nearly all writers on the subject of rhetoric have divided the kinds of arguments into three classes, and have given to these classes the names, (A) antecedent probability, (B) sign, and (C) example. The meanings given to these titles and the divisions made under them have been somewhat varied, so that there is no universally accepted classification. Any division which shall be of service in argumentation must have for its purpose the establishment of standards by which we may determine whether any particular arguments are good or bad, strong or weak, as the materials of proof. Consequently, in order to give a practical insight into the proper selection and use of arguments in argumentation, and a practical power to detect the most serious fallacies, the kinds of arguments should be classified and explained in such a way as to make clear, as far as possible, *on what the strength of the various kinds of arguments depends.* The classification used here (the old trilogy, systematized and clarified, we trust, in its subdivisions) is retained as much more fundamental, accurate, and serviceable than any of the modifications of it attempted by recent writers.

The lines of division between the classes of arguments cannot always be drawn with absolute distinctness. Many arguments with slight changes in phrase pass from one class to another. But this is not a serious matter. It is the understanding of the structure and substance of the arguments that is essential. We have seen that an argument is a process by which, from knowing the existence of a fact or a certain number of facts, we infer the existence of some other fact or facts. In the first place, then, it should be stated that in nearly every argument *the validity of the inference depends upon a connection of cause and effect between the facts from which we infer and*

[1] Sidgwick, pp. 75, 76.

*the facts to which we infer.* This connection is not always actually understood by the person making the argument, and is often not stated. But this connection is, nevertheless, in most cases, the source of strength or weakness in the reasoning. It must be understood in order to know the real force of the argument and detect the fallacies of the opponents. "Whether the given inference be right or wrong, whether it be express and deliberate, or rapid and free, whether it take the form of a cut-and-dried syllogism, an argument from analogy, or from circumstantial evidence, in all cases equally it is our belief about the way things hang together in nature that provides alike the sole motive power of inference and the sole foundation on which we rest our proofs." [1] However, there are many valid arguments in which this causal connection is not evident, and in these cases it must also be determined what is the element of their strength.

**A. Antecedent probability.** *The argument from antecedent probability is an argument from cause to effect.*

It is sometimes said that the argument from antecedent probability requires a preliminary assumption; that the argument consists in assuming the existence of some fact and then producing evidence to show that the assumption is justified. This is not true. Very often it is convenient in presenting or explaining the argument to make such an assumption. As, for instance, in a criminal trial a lawyer, when he is arguing before the jury, may practically assume for the time that A murdered B, and then go on to show that A had a motive. Of course he must not assume that A committed the murder and then infer from this that he must have had a motive. The assumption is purely a preliminary step. The motive must be established independently. This having been done, the lawyer argues from the known cause (the motive) to the unknown effect (that A murdered B). This is an argument from antecedent probability, and the assumption made by the lawyer is not an essential part of the argu-

[1] Sidgwick, p. 46.

ment. Note that the unknown effect is not that B was murdered, or that B was killed, or that B is dead. The unknown effect to which we argue is the fact in issue concerning A. For the sake of clearness he may first show that A's pistol was found beside the body, and present various other kinds of evidence, to create a presumption of guilt against A, before he discusses his motives. Such a method is obviously more sensible than examining the possible motives of all the persons who might possibly have committed the crime, especially since the lawyer is hired to prosecute this particular man, A. Moreover, the effect on the jury is helped by the corroboration of other kinds of arguments, the arguments from sign in this case. But this assumption is not essential. The strength of the argument itself depends entirely upon the connection of cause and effect, between the motive and the deed. The argument is conclusive if it can be shown that these motives of A were the cause that would produce the effect in question, viz., the murder of B by A, and its validity will vary with the strength of this causal connection.

The argument from antecedent probability, then, is *an inference from a known cause to an unknown effect;* it consists in showing that a certain known fact or combination of facts is of such a nature as to bring to pass the existence of another fact, whose existence is in dispute. An argument from cause to effect is often called an *a priori* argument.

An example is found in the famous White murder trial. There Daniel Webster showed that the Knapps believed they could get Captain White's fortune by murdering him and stealing his last will, and then argued that this motive was the cause that produced the effect in question, viz., their murder of Captain White. Again, if one of the larger universities of the country is known and acknowledged to have a very strong foot-ball team, it is an argument from antecedent probability to infer that this team will defeat a team from some small college of two or three hundred students. It is inferred that the known cause—the strength of the univer-

sity team—will produce the effect of a victory over a weaker rival. A good illustration of this kind of argument is found in the following selection from a speech given at a National Democratic Convention to account for hard times under a Democratic administration:—

"When the Democracy came into power in 1893 it inherited from its Republican predecessor a tax system and currency, a system of which the McKinley and Sherman laws were the culminating atrocities. It came into power amidst a panic which followed upon their enactment with strikes, lockouts, riots, civil commotions, while scenes of peaceful industry in Pennsylvania had become military camps. Besides its manifest features, the McKinley law had thrown away fifty millions of revenue derived from sugar under a special plea of a free breakfast table, and substituted bounties to sugar planters, thus increasing expenditure, thus burning the candle at both ends and making the people pay at last for their alleged free breakfast.

"From the joint operation of the McKinley law and the Sherman law, an adverse balance of trade was forced against us in 1893, a surplus of $100,000,000 in the treasury was converted into a deficit of $70,000,000 in 1894; and engraved bonds prepared by a Republican secretary to borrow money to support the Government were ill omens of preorganized ruin that awaited the coming Democracy and depleted treasury."

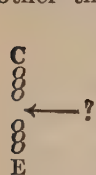
The orator argues that these acts of Republican maladministration were the causes that produced the effect of Republican responsibility for hard times.

**1. Effect to cause not part of a priori argument.** It may be noticed that in many such instances the argument from cause to effect is preceded by a sort of preliminary argument from effect to cause. Before we argue that the strength of the foot-ball team will be the cause of victory, we may prove that the team is strong by showing that it has won victories over other teams in the past. This is an inference from effect—the past victories—to cause—the strength of the team. But this is not part of the *a priori* argument.

The strength of the team is not really in question; it is in this case generally admitted. If, however, the abilities of the team are questioned and must first be proved by showing past evidences of their achievements, the argument thus becomes more truly an argument from certain known effects of a given cause to other effects of the same cause, i. e., an argument from sign. As has already been remarked, the lines of division between the classes are not definite.

**2. Methods of attack.** An argument from antecedent probability may be attacked in several ways, but they are all the same in that they are all directed toward the *destruction of the connection between cause and effect.* In order to be effective, the argument must show that the known or proved fact would probably act as a cause to produce the effect; and it is here that the argument is best attacked.

**a. Is the connection of cause and effect complete?** Is there a broken or missing link in the chain?



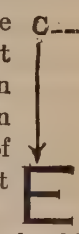

The two facts, one of which is called the cause and the other the effect, are rarely in immediate connection with each other. There are almost always several intermediate steps between the two. "Intermediate links in a chain of causation are so many opportunities for counteraction, in the same way as the length of a piece of railway provides opportunities for any accident. They are intermediate *conditions.* The pull on the trigger will fire the shot if, and only if, the catch, the spring, the hammer, the cap, and so on, all act in the expected manner. Therefore our forgetfulness of intermediate links takes effect just in the same way as our forgetfulness of conditions generally; it may give us a false security." [1] It follows, then, that the closer the causal connection, the surer is the argument, and that any argument may be destroyed by showing that some of the necessary

[1] Sidgwick, p. 153.

intermediate links are lacking. It might be proved that A was inspired with a most malevolent hatred of B, that he would welcome any favorable opportunity of attacking him, even that he had actually sought to do him injury; but in order to connect this motive with the murder of B, it must be shown that none of the necessary intermediate steps were lacking. It must be proved that A was present at the time, that he had the necessary weapon, that he was physically strong enough to do the deed. The destruction of one of these links of the chain destroys the argument.

**b. Is the cause adequate to produce the effect in question?** Could such a little cause have such a big effect?

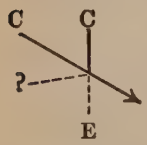
It is not difficult to imagine any number of facts that might possibly follow from the existence of some other fact. But such connections are not always sufficient to make a valid argument. It is not sufficient that a fact might have a general tendency to produce a certain effect. It must be shown that the cause in question is in itself *adequate* to account for the existence of the effect in question. Is it reasonable to argue that such a little c could produce such a big E?




Ex-Governor Black of New York, in the trial of Roland B. Molineux for the murder of Mrs. Adams, used this test when, in speaking of the motives assigned by the prosecution as the cause of the murder, he said: "They have failed utterly to supply a motive. It is absurd to suggest that out of a mere quarrel such as Cornish and Molineux had, should grow a hatred so profound as to inspire a man twelve months later to commit murder." In 1893 the so-called "hard times" from 1892 to 1896 were said by some people to have been caused solely by the unexpected failure of a prominent English banking house. The failure in question might have been a startling incident of the day, it might perhaps have precipitated failures and misfortune elsewhere; but it was clearly no adequate cause for such a widespread and prolonged misfortune.

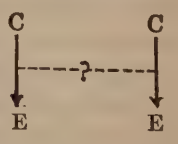
**c. Did the operation of other causes in the case in question prevent the action of the cause under discussion?**

The normal progress between the cause and the effect is often stopped or turned from its course by the intervention of some other cause which destroys or turns aside the natural result of the first cause. If a man takes a dose of deadly poison, the chances are that it will cause his death; but it may be shown that this effect will not actually follow in this case, by showing that the man took an antidote. The antidote prevents the occurrence of the natural effect. One may argue that the Chinese race are very numerous, that as a people they are physically formidable, that they are peculiarly fortunate in climate and in economic resources, and, consequently, that there is great danger of a commercial "Yellow Peril." This is a clear inference from cause to effect. But this reasoning may be attacked, by arguing that certain racial peculiarities of the Chinese prevent them from being aggressive competitors, and make them thus incapable of the powers of initiative and self-advancement necessary for independent commercial progress as a race. The operation of this second cause will destroy the connection of cause and effect on which the argument depends.




**d. Is there an entirely different argument from cause to effect that should be substituted for the one advanced?**

Very often the argument from antecedent probability is used to account for the existence of some particular phenomenon. It is human nature to wish to know a sufficient cause for any fact presented. If you say something is true, somebody immediately wants to know why it is natural that it should be true. To recur to the example of the criminal, if a lawyer tries to account for a robbery, he must show that his explanation of it is natural and reasonable. So he tries to show that the man he



is prosecuting had a motive for committing the crime. In attempting to overthrow such an argument, it may not be sufficient to show that the connection of cause and effect is weak. A weak cause is better than no cause at all. Consequently, it is necessary to *substitute some other argument from cause to effect* for the argument that has been attacked. The causal connection that seems the more reasonable will be accepted to the exclusion of the other.

For instance, a man is murdered. This is a known fact. We try to account for it by showing that A murdered him. To prove this we show A's motive. In answer A shows that B had a stronger motive. Here we substitute a complete new argument that seems better to account for the big problem we are trying to explain. Note that we are not substituting a new c for the same E. We substitute B's motive for A's motive and from this known cause argue to a new unknown effect that B is the murderer. This being inconsistent with the effect we inferred from A's motive, we make the substitution complete and drop the first argument.

Of two such arguments of unequal force the stronger, of course, ought to displace the weaker. If one argues that A committed a murder in order to inherit $1,000, this argument is met (though perhaps not the whole case against A) by showing that B knew that by the death of the deceased he would get $1,000,000. *Other things being equal* the million dollar motive outweighs the thousand dollar motive. In case two equal *a priori* arguments are presented, each person will accept the one that he prefers to believe—the one that fits his likes and dislikes best. This method was used in the Molineux trial. The defence attacked the argument of the prosecution to show that the defendant had a motive that caused him to commit the murder in question, by producing evidence to show that another man concerned in the case had stronger motives and consequently that it was no more rational to accuse the defendant than it was to accuse this man.

In refuting arguments from antecedent probability the

rhetorical treatment may take various forms, but the analysis of the argument is always the same; the attack is always directed toward one point,—the connection between cause and effect.

**B. Sign.** The argument from sign is, in general, what the name implies. It rests upon the assumption that the facts dealt with will always or usually accompany each other, and that consequently the presence of one will be a sign of the presence of the other. As in the argument from antecedent probability, most arguments from sign depend for their validity upon a causal connection; but we shall also find that there is a class of arguments from sign in which this causal connection is not fully understood or expressed, or, at least, is hard to trace. Arguments of this last-mentioned class depend for their strength upon the fact of a more or less invariable association in the past between the facts in question, and are therefore closely akin to generalization. There are three kinds of arguments from sign. 1. *Arguments from effect to cause.* 2. *Arguments from one effect to another effect of the same cause.* 3. *Arguments from the association of phenomena in the past.*

**1. The argument from effect to cause** is the reverse of the argument from antecedent probability. As that was an argument based on facts antecedent to the fact in dispute, so this is an argument based on facts coming after the fact in dispute. As the former is called an *a priori* argument, so the latter is called an *a posteriori* argument. From a known, admitted fact we argue *back* to an unknown, disputed fact. We say the latter exists or existed because the former is an effect of it. If it can be shown that any alleged fact whose existence we wish to prove is or was the cause of any known fact, the proof of this alleged fact is indisputable. When we see ice, we safely conclude that the temperature has been below a certain point; and the argument is beyond dispute, because it is only a certain degree of coldness that will freeze water.

William Seward argued from effect to cause in the follow-

ing part of his defence of William Freeman. Freeman was on trial for murder, and Seward's defence was that of insanity on the part of the prisoner:—

"There is proof, gentlemen, stronger than all this. It is silent, yet speaking. It is that idiotic smile which plays continually on the face of the maniac. It took its seat there while he was in the State prison. In his solitary cell, under the pressure of his severe tasks and trials in the workshop, and during the solemnities of public worship in the chapel, it appealed, although in vain, to his task-masters and his teachers. It is a smile, never rising into laughter—without motive or cause—the smile of vacuity. . . .

"That chaotic smile is the external derangement which signifies that the strings of the harp are disordered and broken, the superficial mark which God has set upon the tabernacle to signify that its immortal tenant is disturbed by a divine and mysterious commandment. If you cannot see it, take heed that the obstruction of your vision be not produced by the mote in your own eye, which you are commanded to remove before you consider the beam in your brother's eye. If you are bent on rejecting the testimony of those who know, by experience and by science, the deep afflictions of the prisoner, beware how you misinterpret the handwriting of the Almighty." [1]

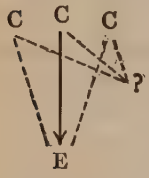
A number of years ago, in Yorkshire, England, a traveller, having in his pocket certain marked coins, was attacked in the early evening, murdered, and robbed. The following day coins of this peculiar stamp were found on the person of a certain manservant at an inn in the vicinity. This servant was unable to account for his possession of the money, and on this evidence he was tried, convicted, and hanged. This was a clear argument from sign—from effect to cause. It was argued that his possession of the coins was the effect of his taking them from the body of the murdered man on the evening before. But several years after it was found that the conviction was a mistake. The keeper of the inn confessed that he himself committed the murder and, in order to trans-

[1] *Works of William H. Seward*, Vol. I, p. 468.

fer the guilt, got his servant intoxicated and put the coins into his pocket. The argument from sign was fallacious, because the effect in question was the result of another cause than that inferred.

**a. Methods of attack.** There are two ways of attacking the argument from effect to cause, one from the alleged cause as the basis showing that it could not have been the cause of the effect, the second from some other cause as a basis showing that this other cause more probably produced the effect.

**(I) May not the known effect be due to some other cause than the one alleged?**



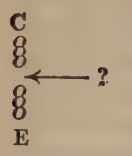

A mariner at night seeing lights ahead infers that a ship or a lighthouse is at hand. But his inference may be sadly false. The lights may be set or manipulated on shore with the purpose to mislead him and profit by the wreck of his ship. Again it is argued that Shakespeare must have written the works attributed to him, because he was credited with their authorship all through his life. It is said that this effect must have been due to the cause, that he did actually write the works. But those who oppose this view attack the argument by showing that the popular belief may be attributed to other good causes,—to the comparative lack of interest in the authorship at the time, or the desire of the real author to conceal his identity,—and so, that the reputation is no sure sign of authorship.

**(II) Is the alleged cause capable of being the real cause of the effect in question?**

We may also attack the argument directly, in much the same way that we would attack the argument from antecedent probability, by showing that the cause which it is alleged produced the known effect was really not capable of producing it. This is commonly done by showing that the cause was not powerful enough, or that in some way the effect would

not be a reasonable and normal result of this cause. But it must be observed that this alone is not always sufficient to destroy the argument. Although this phenomenon might not in itself have been a sufficient cause, other causes might have coöperated with it in producing the effect, and so the known effect may still be a sign of this alleged cause. To make the refutation complete in such a case, it must be shown that these other causes, whose coöperation was necessary, did not exist.

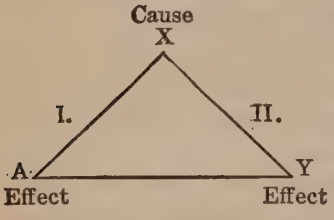
(III) **Is the cause and effect connection complete?** This, the same test already suggested for antecedent probability, is, of course, just as effective here. When a washout carries away a section of a railroad, trains cannot go through in *either* direction. We can neither go up or down the chain of causal connection if a link is missing.




There are many other devices that may be invented and employed in different cases, which are too numerous or complicated to be explained here. The foregoing are the most common and effective tests; and of the other tests it may be remarked that they are all directed to destroy the causal connection, and that they may be readily invented if the nature of this inference from effect to cause is understood.

**2. The argument from effect to effect.** The second class of the arguments from sign involves a process of inference which is a combination of the argument from cause to effect and the argument from effect to cause. The argument from effect to effect is simply an inference from a known effect of some cause to the existence of an unknown effect of the same cause. A certain fact or combination of facts is known to exist. From the existence of this known fact the existence is inferred of another fact which is alleged to be its cause—the argument from effect to cause. Then a second step is taken; it is inferred that this cause produces another effect, this second unknown effect being the fact which it is the aim of the argument to prove. Very often,

of course, a short cut is taken from one effect to the other effect, paying little or no attention to the common cause. To illustrate by a diagram:—




In full detail the process is as follows:

The effect A is known, i e., it is admitted or it has been established by evidence. From this known effect is inferred by process number I (argument from effect to cause) the existence of X, which is alleged to be its cause. Then by process number II (argument from cause to effect) is inferred the existence of Y, which is alleged to be another effect of the cause X. The argument seeks to prove Y as an inference from A, and in doing so it passes through the connecting cause X. The short cut consists of inferring immediately that where there is A there is Y. This is sound when it is true that that which causes A invariably causes Y also.

In the evening we observe a redness of the sky, and we argue that there will be fair weather the next day. It is an argument from effect to effect. The redness is due to certain atmospheric conditions, and these conditions are such that they will produce fair weather. We argue that a certain man will succeed as the president of a corporation. We first point to his success in other enterprises requiring executive skill and creative power; from them we infer their cause, his abilities, and then reason that these abilities will produce their effect, viz., success in his new undertaking. We notice that the thermometer is low and at once infer good skating.

The following illustration is taken from the speech of David Paul Brown in defence of Alexander William Holmes (before the Circuit Court in Philadelphia, in 1832). A vessel was wrecked, and, in order to save as many as possible of the passengers, orders were given to throw overboard a part

of them. The defendant obeyed the order and threw certain men over the side of the ship into the water. He was tried for murder, and Mr. Brown is here arguing to show that the defendant acted in good faith and with right motives. He said:—

"I am strengthened in this position by the indisputable fact that Holmes, the prisoner, during the whole voyage, was upon the kindest and most harmonious terms with all the passengers; that he preserved the same friendly relation to them after the loss of the ship; that he had perilled his life more than once to preserve them; that he had literally stripped himself of his apparel for their comfort; in short, his desire to save them seemed to absorb all consideration of mere personal or individual safety. In these circumstances, to suppose anything cruel or wanton upon his part is to run counter to everything that is possible or natural. I infer, therefore, that he supposed the peril to be imminent and instantaneous, or he never would have complied with the orders of the mate. . . . I maintain, therefore, that the most favorable construction is to be placed upon his motives; and it is justly to be inferred that he acted upon the impression that the danger was imminent, and that death was inevitable to all, except by resorting to those means which he actually adopted. . . . But even taking all the statements of the witnesses for the prosecution, highly colored—I will not say discolored—as they are, and torture them as you may, it is impossible for you to arrive at any other conclusion than that Holmes was actuated by the kindest and most generous influences; and certainly I need not say that kindness and generosity are opposed to wantonness and barbarity." [1]

He argues that the former actions of Holmes were the evidences of their cause, viz., his sincere interest for the welfare of the passengers, and then argues that this cause produced the effect in question, his honesty of motive in this particular instance.

In a great part of the arguments of this class it is noticeable that more than one effect is usually adduced to prove

[1] *Great Speeches by Great Lawyers*, pp. 143, 144.

the existence of the cause, each effect giving added evidence of the single cause alleged.

**a. Methods of attack.** The points of weakness in this kind of argument are evident. It is a combination of the two foregoing arguments,—from sign and from antecedent probability; and if either one of these component inferences is defective or can be successfully attacked, the whole argument is destroyed. Referring to the diagram given above, the argument can be attacked in either leg of the triangle. (I) *The tests are, therefore, the tests already given for the arguments from cause to effect and from effect to cause.*

For example, the argument of Mr. Brown might be attacked at two points. It might be shown that the effects he mentioned—relations of Holmes with the passengers and his apparent solicitude in their behalf, etc.—might not really be due to the alleged cause, viz., his interest for their welfare, but to another cause—perhaps his desire to win favor or pecuniary gain. Again it might be attacked (test number 3, of arguments from antecedent probability) by granting the sincerity of his motives in general, but showing that certain circumstances peculiar to his particular case prevented the natural operation of the cause. Perhaps the defendant was so fearful for his own life that his usual honesty was put aside and he acted selfishly or maliciously. Or in the other example, the thermometer may be out of order, so the cold that we inferred may not have been. Our cause was wrong. Or the cause may have been right, but a high wind prevented the formation of ice, so our second effect is lacking.

**3. Association of phenomena in the past.** The third class of arguments from sign is composed of arguments based upon the past association of facts or phenomena. Two phenomena have been observed to happen together so many times in the past as to seem to justify the belief that they will accompany one another in the future. So when one of the facts or phenomena is observed to be present in any particular case, it is inferred that the other also is present. In such

arguments the causal relation is not readily understood or explained, although it undoubtedly exists.

**a. Association of phenomena and generalization.** This kind of argument is very closely related to the argument by generalization. In any given case a slight change in expression may shift the argument from one type to the other. In so far as it is possible to draw a strict dividing line between arguments from the association of phenomena in the past and arguments by generalization, we classify according to whether the underlying causal connections are expressed or not. When the causal relations are not understood, or are understood and taken for granted but not expressed, no general rule formulated, the argument is strictly speaking an argument from the association of phenomena in the past. That is we accept one thing as the *sign* of something else without expressing our mode of reasoning, without citing a general rule with instances to prove it (generalization) and without comparing two individual cases as to resemblances, point by point, as a basis for inferring resemblance on a disputed point (analogy). The argument from association might be called simply *an implied generalization.* Its strength depends upon the validity of the underlying unexpressed generalization.

We may infer that any ruminating animal has cloven hoofs; conversely, we may infer that any animal with cloven hoofs is a ruminant. These inferences are reasonably safe because in most cases the two characteristics have been found to exist together, although scientists do not understand the exact nature of the connection. The argument about ruminant animals depends on the fact that the concurrence of the two phenomena seldom fails. In some cases the rule has been broken; the pig and the tapir, for illustration, have cloven hoofs, but are not ruminants: consequently, the convincingness of the argument is weakened, and any considerable number of exceptions would make it valueless.

The conclusion you draw that A is nearby when you see

his dog or horse or hat somewhere; many every day statements about the weather or crops, or the habits of animals; the immediate and almost universal import of a half-masted flag, or crepe on a door; all these are examples of this type of argument. What has been said earlier about the impossibility of hard and fast dividing lines, should be kept in mind in connection with this type of argument. It is possible to list here arguments that might fit under either of the other types of sign, or under generalization, or even antecedent probability. But it still seems well worth while to keep this old label for that large class of "implied generalizations" in which no general law is formulated or expressed, and many times not understood. It should also be observed that examples of this type of argument are *usually* (not always) found in fields where unchanging laws of nature are not in control—or are not understood to be in control—but usually are cases in which the human will plays an important part. It is so possible that the two phenomena are not associated *this time*—that someone else has A's horse, or dog, or hat—that the flag has been half-masted by mistake, or the crepe put up as a joke. This argument is very weak in itself, but is often important in corroborating other elements in a case.

**b. Methods of attack.** It is, then, clear where the argument may be open to attack. The habit of hasty, unreasoning (and often unrecognized) implied generalization is very common. In many debates this very error is predominant. A speaker or writer cites a few instances of the concurrence of two facts in the past and argues that because they have happened together in the past, they must happen together in the present instance. Really, what he has established is, that they *may* happen together; he has *proved* nothing, and his attempt may be rendered null by (I) pointing out that the *cases are too few* to establish a law of concurrence, which is really necessary—i. e., exposing the weakness of the implied generalization which fails to come up to the tests of a real generalization which it must meet; or better, (II) by

producing *contrary examples*, definite cases where the one phenomenon has occurred without the other; or (III) destroying its corroborative function by showing it to be actually *inconsistent* with facts in the case already known. Arguments of this kind are from their nature of doubtful value. The coexistence of the two facts in past instances is not shown to be anything more than mere accident, and chance is at best a weak foundation on which to base an interference. The argument gathers its force wholly from the frequency of the past concurrence of the phenomena. In order to approach *conclusiveness* we must have: (I) a very large number of cases of the observed concurrence of the facts or phenomena, and (II) substantial uniformity in the operation of the rule that when one occurs the other accompanies it, and (III) harmony with accepted facts in the case.

**C. Example.** The third and last division of the kinds of arguments is composed of those which depend for their strength upon the resemblance between the case in question and some other case or cases, which are adduced either as analogous in nature to this particular case, or as establishing some general law that is applicable to it. There are, therefore, two classes of arguments from example, which may be called, respectively, (1) the argument by generalization, and (2) the argument from analogy.

**1. Generalization.** In arguments of this kind we "consider one or more known individual objects or instances of a certain class as fair specimens, in respect of some point or other, of that class; and consequently draw an inference from them respecting either the whole class or other less known individuals of it." [1] Our purpose is to establish a general law which will apply to a particular case under discussion.

The following from Burke's *Speech on Conciliation* is an illustration of an inference from individual instances to a truth respecting the whole class to which they belong:—

[1] Whately, p. 52.

"In large bodies, the circulation of power must be less vigorous at the extremities. Nature has said it. The Turk cannot govern Egypt, and Arabia, and Curdistan, as he governs Thrace; nor has he the same dominion in Crimea and Algiers, which he has at Brusa and Smyrna. Despotism itself is obliged to truck and huckster. The Sultan gets such obedience as he can. He governs with loose rein, that he may govern at all; and the whole of the force and vigor of his authority in his centre is derived from a prudent relaxation in all his borders. Spain, in her provinces, is, perhaps, not so well obeyed as you in yours. She complies too, she submits, she watches times. This is the immutable condition, the eternal law, of extensive and detached empire." [1]

Chief Justice Marshall, in his opinion delivered in the case of McCulloch *vs.* Maryland,[2] used the argument by generalization as follows:—

"The power of creating a corporation, though appertaining to sovereignty, is not, like the power of making war or levying taxes or of regulating commerce, a great substantive and independent power, which cannot be implied as incidental to other powers, or used as a means of executing them. It is never the end for which other powers are exercised, but a means by which other objects are accomplished. No contributions are made to charity for the sake of an incorporation, but a corporation is created to administer the charity; no seminary of learning is instituted in order to be incorporated, but the corporate character is conferred to subserve the purposes of education. No city was ever built with the sole object of being incorporated, but is incorporated as affording the best means of being well governed. The power of creating a corporation is never used for its own sake, but for the purpose of effecting something else."

In the following, Channing, arguing that the sufferings of the slaves are evils and should be done away with, infers from individual instances of a class to "another less known individual of it:"—

[1] Cook's Edition, p. 26.

[2] 4 Wheat. 316.

"Allow that the sufferings of the slave are less than those of the free laborer. But the sufferings are Wrongs, and this changes their nature. Pain as pain is nothing compared with pain when it is wrong. A blow, given me by accident, may fell me to the earth; but, after all, it is a trifle. A slight blow, inflicted in scorn or with injurious intent, is an evil, which, without aid from my principles, I could not bear. Let God's providence confine me to my room by disease, and I more than submit, for in his dispensations I see parental goodness seeking my purity and peace. But let man imprison me, without inflicting disease, and how intolerable my narrow bounds. So if the elements take away our property, we resign it without a murmur; but if a man rob us of our fortune, poverty weighs on us as a mountain. Anything can be borne but the will and the power of the selfish, unrighteous man. . . .

"My hostility to the system does not rest primarily on the physical agonies it inflicts, but on a deeper foundation: on its flagrant injustice, and on the misery necessarily involved in a system of wrong." [1]

He adduces examples to prove the general truth that, regardless of the pain it inflicts, injustice or wrong always creates an evil, and then applies this general truth to the instance of slavery so proving that slavery is an evil.

Under this head Hill [2] offers some good suggestions and provides some excellent examples which we quote.

**a. Illustrative and argumentative examples.** "In arguments of the first class, it is important to distinguish between examples which are merely illustrative and those which are argumentative. A supposed case under a general principle which is itself in dispute, though it may make the principle more intelligible, does not tend to prove its truth. Cicero's proposition that nothing is expedient which is dishonorable is explained, but not established, by the example he gives,—an example drawn from Themistocles's project of burning the Spartan fleet. This plan Cicero, in opposition to Aristides, maintains to be inexpedient because dishonorable; but no one who had not already assented to the general

[1] *Channing's Works*, Vol. V, pp. 37, 39. [2] Hill, pp. 361, 363.

principle would be convinced of its soundness by this example.

"An actual instance of the operation of a principle has, on the other hand, the force of an argument. Such an argument is given in a criticism of Sir James Fitzjames Stephen's *History of the Criminal Law of England.* In answer to Sir James's proposition 'that unanimity of jurors is essential to trial by jury: that if *that* is to be given up, the institution itself should be abolished,' his critic refers to the fact that in Scotland, where a majority of jurors decide, trial by jury succeeds as well as in England. Another example is given in the following passage:—

"The outcry of a suffering beast may be no measure of its distress. That outcry, like all else in nature, is of a strictly utilitarian character. But it was not developed in the first place as an appeal to the sympathy of man, and therefore man's senses and intuitive judgment cannot be trusted to interpret it aright. The pig squeals aloud when he is hurt, and advertises his woe over half the parish, because, in the wild state, his comrades were sworn to rescue him from a foe or die. Many a hunter who has been treed by a herd of peccaries, after wounding one of them, has had convincing proof of their magnificent *esprit de corps.* The sheep is dumb before her persecutors because, when wild, there was no hope of salvation from the scared flock, fast fleeing to inaccessible hills as soon as the wolf began his raid. The Virginian opossum, when playing that part in the world's drama which he has made peculiarly his own, will allow his limp carcase to be mauled to an incredible extent without moving an eyelid. He acts his lie with Cretan facility, and sticks to it with more than Spartan fortitude. Yet he is silent for exactly the same reason that the pig is so shrilly vociferous, viz., because this has been proved the best way to preserve his precious life." [1]

"Still another example is the little essay by Charles Lamb[2]

[1] Louis Robinson, M. D., Every-day Cruelty. *The Fortnightly Review,* July, 1894, p. 107.

[2] Essays of Elia. *Popular Fallacies,* VII.

on the popular proverb that 'of two disputants the warmest is generally in the wrong':—

"Our experience would lead us to quite an opposite conclusion. Temper, indeed, is no test of truth; but warmth and earnestness are a proof at least of a man's own conviction of the rectitude of that which he maintains. Coolness is as often the result of an unprincipled indifference to truth or falsehood, as of a sober confidence in a man's own side in a dispute. Nothing is more insulting sometimes than the appearance of this philosophic temper. There is little Titubus, the stammering law-stationer engaged in Lincoln's Inn—we have seldom known this shrewd little fellow engaged in an argument where we were not convinced he had the best of it, if his tongue would but fairly have seconded him. When he has been spluttering excellent broken sense for an hour together, writhing and labouring to be delivered of the point of dispute—the very gist of the controversy knocking at his teeth, which like some obstinate iron-grating still obstructed its deliverance—his puny frame convulsed, and face reddening all over at an unfairness in the logic which he wanted articulation to expose, it has moved our gall to see a smooth portly fellow of an adversary, that cared not a button for the merits of the question, by merely laying his hand upon the head of the stationer, and desiring him to be calm (your tall disputants have always the advantage), with a provoking sneer carry the argument clean from him in the opinion of all the by-standers, who have gone away clearly convinced that Titubus must have been in the wrong, because he was in a passion; and the Mr. ———, meaning his opponent, is one of the fairest and at the same time one of the most dispassionate arguers breathing!"

We have already mentioned *a priori* (antecedent probability —cause to effect) and *a posteriori* (sign, first type, effect to cause). A third label, *a fortiori*, which is often used in connection with these two, covers a certain use of the argument from example. It may be used either in generalization, or analogy. Genung [1] explains it briefly and gives some very good illustrations.

[1] Genung, *Prac. Rhet.*, pp. 421, 422.

"A favorite use of the argument from example, especially in oratory, is the argument technically called *a fortiori*, which reasons that if a certain principle is true in a given case, much more will it be true in a supposed case, wherein the conditions are more favorable.

"Many of the assertions of Scripture are put in the form of an argument *a fortiori;* for example: 'Wherefore, if God so clothe the grass of the field, which today is, and tomorrow is cast into the oven, shall he not much more clothe you, O ye of little faith?'

"The following, from Burke, advocates sympathy with the Irish Roman Catholics, as more natural and fitting, for the English, than the sympathy which was actually given to the Americans in the time of the Revolution:—

"'I confess to you freely that the sufferings and distress of the people of America in this cruel war have at times affected me more deeply than I can express. I felt every gazette of triumph as a blow upon my heart, which has an hundred times sunk and fainted within me at all the mischiefs brought upon those who bear the whole brunt of the war in the heart of their country. Yet the Americans are utter strangers to me; a nation among whom I am not sure that I have a single acquaintance. Was I to suffer my mind to be so unaccountably warped, was I to keep such iniquitous weights and measures of temper and of reason, as to sympathize with those who are in open rebellion against an authority which I respect, at war with a country which by every title ought to be, and is, most dear to me,—and yet to have no feeling at all for the hardships and indignities suffered by men who by their very vicinity are bound up in a nearer relation to us, who contribute their share, and more than their share, to the common prosperity, who perform the common offices of social life, and who obey the laws, to the full as well as I do?'"

**b. Methods of attack.** In this argument as we have said we present "one or more individual objects or instances, of a certain class, *as fair specimens, in respect of some point* or other, and *draw an inference from them, respecting the whole*

*class* or other less known objects of it." The italicised parts of this definition indicate the two points for attack on this argument. To test an argument by generalization apply two questions to it:

(I) **"Are the specimens fair in respect of the point in issue?"** The failure to meet this test is very common in dishonest and partisan controversy. The statement that "100 students were asked if they wanted the ——— system introduced, and only three said 'Yes,"' has no valid force whatever if the 100 students were all unfair specimens of the general student body of 5000 in regard to the particular point in issue. Choosing unfair specimens and making out a plausible, but dishonest and worthless generalization, is a favorite trick of partisan investigators and advocates who have to make out a preconceived case regardless of the truth.

(II) **" Has a large enough part of the class been observed to justify an inference regarding the whole class or unobserved parts of it?"** To apply this test, as the first one, it is necessary to know the exact nature of the question at issue. In questions which concern the working out of natural laws, as in chemistry, physics, biology, etc., a very small number of specimens are needed to determine the rule. If a certain treatment of a dozen rabits results in each case in the same way, it is reasonably safe to formulate a rule for all the millions of rabbits, or for other animals as well. In chemistry or physics one very carefully performed experiment may well settle some question for all time. A rule can be formulated and followed with confidence in every case. *This is generalization from a single instance.* It is allowable when dealing with the working of natural laws on inanimate materials, and sometimes on plants and animals. Of course, in regard to many questions, as questions in chemistry, or physics, plants and animals, even human beings, are to be tested in the same manner as inanimate materials. It is as we get further and further from this type of question, and nearer to questions involving personal taste, ability, prej-

udice, opinion, belief, etc., that we must increasingly enlarge the proportion of observed instances. The greater the possible variations in answer to our question, the wider must be the field of observation, in order to justify a generalization. And, of course, the very nature of many questions preclude the possibility of getting a rule that will work without exceptions. In practically all questions affecting human conduct a high degree of probability is all we can hope to get for any general rule.

**2. Analogy.** In taking up a consideration of the analogy it is well to cite some well known and authoritative writers in regard to different ideas as to what constitutes an analogy. There are two quite different conceptions which we shall label for convenience "figurative analogy" and "literal analogy."

**a. Figurative analogy.** Says Whately:—[1]

"The word Analogy again is generally employed in the case of Arguments in which the instance adduced is somewhat more remote from that to which it is applied; e. g., a physician would be said to know by *Experience* the noxious effects of a certain drug on the human constitution, if he had frequently seen men poisoned by it; but if he thence conjectured that it would be noxious to some other species of animal, he would be said to reason from *analogy;* the only difference being that the resemblance is less, between a man and a brute, than between one man and another; and accordingly it is found that many brutes are not acted upon by some drugs which are pernicious to man.

"But more strictly speaking, Analogy ought to be distinguished from *direct* resemblance, with which it is often confounded, in the language, even of eminent writers (especially on Chemistry and Natural History) in the present day. Analogy being a 'resemblance of ratios,' that should strictly be called an Argument from Analogy, in which the two things (viz. the one *from* which, and the one *to* which we argue) are not, necessarily, themselves alike, but stand in similar

[1] *Elements of Rhetoric,* pp. 72, 73.

*relations* to some other things; or in other words, that the common *genus* which they both fall under, consists in a *relation*. Thus an egg and a seed are not in themselves alike, but bear a like relation, to the parent bird and to her future nestling, on the one hand, and to the old and young plant on the other, respectively; this *relation* being the genus which both fall under; and many arguments might be drawn from this Analogy. Again, the fact that from birth different persons have different bodily constitutions, in respect of complexion, stature, strength, shape, liability to particular disorders, &c., which constitutions, however, are capable of being, to a certain extent, modified by regimen, medicine, &c., affords an Analogy by which we may form a presumption, that the like takes place in respect of mental qualities also; though it is plain that there can be no direct resemblance either between body and mind, or their respective attributes.

"In this kind of Argument, one error, which is very common, and which is to be sedulously avoided, is that of concluding the *things* in question to be *alike*, because they are *Analogous;* to resemble each other in themselves, because there is a resemblance in the relation they bear to certain other things; which is manifestly a groundless inference.

"Sometimes the mistake is made of supposing this direct resemblance to *exist* when it does not; sometimes, of supposing, or sophistically representing, that such resemblance is *asserted*, when no such thing was intended. One may often hear a person reproached with having compared such and such a person or thing to this or that, and with having in so doing introduced a most unjust, absurd, and indecorous comparison; when, in truth, the object in question had not been, properly speaking, compared to any of these things; an *Analogy* only having been asserted. And it is curious that many persons are guilty of misrepresentation, who are, or ought to be, familiar with the Scripture-Parables; in which the words "compare" and "liken" are often introduced, where it is evident that there could have been no thought of

any direct resemblance. A child of ten years old would hardly be guilty of such a blunder as to suppose that members of the church are literally 'like' plants of corn,—sheep,—fish caught in a net,—and fruit trees.

"Another caution is applicable to the whole class of arguments from Example; viz. not to consider the Resemblance or Analogy to extend further (i. e., to more particulars than it does). The resemblance of a picture to the object it represents, is direct; but it extends no further than the one sense, of *Seeing*, is concerned. . . .

"Thus, because a just Analogy has been discerned between the metropolis of a country, and the heart of the animal body, it has been sometimes contended that its increased size is a disease—that it may impede some of its most important functions, or even be the cause of its dissolution."

Here we have an excellent discussion of the strict old analogy—a comparison of things which are *not alike in themselves*,—but are alike in the relations they bear to other things. So we have analogies drawn between the circulation of the blood and the circulation of money, the life of man and the life of a nation, the spread of ideas and the spread of disease. In all such analogies we are dealing simply with a *resemblance of relations*.

**b. Literal analogy.** Another kind of analogy is explained by Minto.[1] "In a strict logical sense, however, as defined by Mill, sanctioned by the previous usage of Butler and Kant, analogy means more than a resemblance of relations. It means a preponderating resemblance between two things such as to warrant us in inferring that the resemblance extends further. This is a species of argument distinct from the extension of an empirical law. In the extension of an empirical law (i. e., generalization), the ground of inference is *a coincidence frequently repeated within our experience*,[2] and the inference is that it has occurred or will occur beyond that experience; in the argument from analogy, the ground of in-

[1] *Minto*, book ii. ch. X.

[2] Italics ours.

ference is the *resemblance between two individual objects or kinds of objects in a certain number* of points, and the inference is that they resemble one another in some other point, known to belong to the one, but not known to belong to the other. "Two things go together in many cases, therefore in all, including this one," is the argument in extending a generalization: 'Two things agree in many respects, therefore in this other,' is the argument from analogy.

"The example given by Reid in his *Intellectual Powers* has become the standard illustration of the peculiar argument from analogy.

"'We may observe a very great similitude between this earth which we inhabit, and the other planets, Saturn, Jupiter, Mars, Venus, and Mercury. They all revolve around the sun, as the earth does, although at different distances and in different periods. They borrow all their light from the sun, as the earth does. Several of them are known to revolve around their visible axis like the earth, and by that means have like succession of day and night. Some of them have moons, that serve to give them light in the absence of the sun, as our moon does to us. They are all, in their motions, subject to the same law of gravitation as the earth is. From all this similitude it is not unreasonable to think that these planets may, like our earth, be the habitations of various orders of living creatures. There is some probability in this conclusion from analogy.'"

The difference between these types of analogy may be brought out by an illustration. Suppose you take an apple and ascertain: (a) its shape, (b) its color, (c) its size, (d) its weight, (e) scars and blemishes on it, (f) its softness, and then (g) its taste. The next day you find another apple which agrees in all the points (a) to (f) inclusive, and you infer that this second apple will be like the first in taste also. They agree in so many points that you reason that they will agree in the point in question. Is this an analogy? It seems evident that Whately would say "No," and Minto would say "Yes."

(I) **Generalization from a single instance.** According to Whately's definition of the analogy this would have to fall into the "generalization" class of argument from example. It would then be a generalization from a single instance. And that is precisely what this argument is; literal analogy is simply another name for it. You have in effect established a general rule that apples which fit the conditions (a) to (f), inclusive, taste so and so, and you apply this general rule to the first apple considered. You would, of course, apply it similarly to a whole barrel of apples. This is a generalization based on a single specimen which is considered a fair specimen, and is made in regard to things that are so uniform in nature that such a generalization is justified. The analogy quoted by Minto from Reid's *Intellectual Powers* is the same. Substantially a general law is formed to the effect that all planets which are like the earth in such and such respects are probably inhabited.

**c. In summary,** then, we have in arguments from example two types: *First*, generalization, the establishment of a general law, based upon specimens examined. This may range from instances dealing with phenomena affected by the human will (generalizations regarding people and human institutions) to instances dealing with phenomena affected only by unchanging laws of nature (generalizations in chemistry, physics, biology, etc.) At the first end of the scale we must examine a great number of instances in order to have a sound generalization. The number diminishes until at the last end of the scale we can generalize from a single instance. Such generalization from a single instance, especially when only one case for its application is in mind, is often called analogy. This use is so widespread that we must accept this as permissible and recognize this as one of the types of analogy (*literal* analogy). Such an analogy is of course often a strong argument. It has real logical force. *Second*, in addition to the use of this term to cover a generalization from a single instance, literal analogy, as discussed above, we have the old-

fashioned analogy (figurative), based purely on a resemblance of relations—not a direct comparison of members of the same class point for point. This type of analogy is usually only a figure of speech and has practically no logical force. It is usually possible to answer it by saying that the analogy is false, that the parallel is not close. Since the things compared are not alike in themselves—not members of the same class, it is always easy to show wherein the parallel breaks down.

**d. Methods of attack.** So the methods of attack of the (I) first type of analogy are really those to be applied to generalization: (A) Is it a fair specimen of the class? (B) Are you taking a large enough part of the class—i. e., is this a field in which one can generalize from a single instance?

(II) *False analogy.* The second type of analogy is met by pointing out that the resemblances are not sufficiently parallel, by attacking it as a false analogy. Thus we often hear it argued that men and nations are alike in certain particulars, and that consequently nations must have youth, manhood, old age, and decay. The argument is not valid, because the resemblance is not a resemblance that has any bearing on the argument. Men and nations are alike in their moral responsibilities; for both, self-indulgence or misjudged action brings its punishment; for both, the same intellectual qualities may bring success. But they are not alike in the one essential point, viz., physical organization. It is usually possible thus to waive aside any analogy of this type. It has no probative force unless the parallel is admitted to be sound—and then probative force is not needed. But while this analogy is of little use as an "argument," it is very effective as a "figure of speech" to make meaning clear. To *explain* the unknown by drawing an analogy to the known is one of the best ways of getting clearness—of showing what you mean. It is very useful indeed in exposition. In regard to resemblances, we must bear in mind that in order to give grounds for any argument or illustration, it is impor-

tant not that the resemblances are many, but that they are such as *bear directly* upon the argument. Horses and generals are not alike in their relations, in many ways; but Lincoln's argument derives its force from the fact that the two are similar in the relation that is important to the argument. "Cæsar had his Brutus, Charles I his Cromwell, and George III may profit by their example." Cæsar was unlike Charles I in most of his personal qualities; he ruled a different country, in a different age. George III was the very opposite of the Roman in temper and character; his people, his advisers, his century, were not similar to those of either of the men cited as "examples." But the three cases were similar in the essential element: Cæsar, Charles I, and George III all represented the pressure of tyranny upon a spirited, liberty-loving people. In each case oppression was the cause of the effect, rebellion; and whatever other differences there may be in the circumstances, the *causes* were similar in nature. Such an argument only emphasizes the fact that the causal connection is essential in this class of arguments, and that the similitude between the instances is a similitude of causes and effects.

**3. Cause and effect in argument from example.** In arguments from example the connection of cause and effect, as in the other two classes of arguments, is, of course, present. The difference is that in the other classes the inference is directly from cause to effect, or effect to cause, whereas in this class the inference depends upon a comparison of causes and effects. In the argument from antecedent probability we argue that certain known facts are of such kind that they must *from their very nature* produce a certain effect. In the argument from example we argue that certain known facts will be the cause of a certain effect because they are similar to the certain other facts which have been the cause of a similar effect in the past. If the facts that we produce as "examples" have happened to follow one another in the past merely by accident, then no amount of comparison can prove anything more than that similar facts *may* happen together in

the future by accident; the comparison cannot give valid grounds for a belief that they certainly *will* follow one another. The causal connection must be present in order to make the argument sound. It is, then, sometimes possible to attack arguments from example from this point of view by showing weakness in the connection *in the "examples,"* as well as by showing that the resemblance between the "examples" and the instance in dispute may not be a true resemblance. The test of the causal connections, have been given in the treatment of the other classes of arguments.

## EXERCISE. CHAPTER 7

### KINDS OF ARGUMENTS

1. Write out original examples of inductive and deductive reasoning.
2. Hand in three examples each of perfect and imperfect induction.
3. Give an original example of each of the five methods of induction.
4. Hand in one good example of each of the following: Syllogism; Sorites; Inference in quantitative relation; Enthymeme.
5. Give one sound argument from antecedent probability and one unsound argument from antecedent probability, indicating which method of attack exposes the weakness of the latter.
6. Give one sound original example of each of the three kinds of argument from sign; and one unsound argument of each kind, indicating the weakness of each of the latter and the proper methods of attack to use against each.
7. Give two sound and two unsound examples of argument by generalization, explaining the strength and weakness of each.
8. Give two examples each of figurative and literal analogy, explaining the strength and weakness of each for argumentative purposes.

## CHAPTER 8

### FALLACIES

### OUTLINE

I. Definition and classification.
II. Rhetorical fallacies (Errors in interpretation).
    A. *Incorrect obversion.*
    B. *Incorrect conversion.*
    C. Amphibology.
    D. Accent.
III. Logical fallacies (Errors in reasoning).
    A. Formal (Violations of rules of syllogism).
        1. In categorical arguments.
            a. Four terms.
            b. *Undistributed Middle* (Illicit Middle).
            c. *Illicit Major.*
            d. *Illicit Minor.*
            e. Negative premise.
            f. Particular premise.
        2. In hypothetical arguments.
            a. *Denying the antecedent.*
            b. *Affirming the consequent.*
        3. In disjunctive arguments.
            a. Imperfect disjunction.
    B. Material (not in the form but in the matter).
        1. Equivocation (Ambiguity).
            a. In quantity.
                (I) Composition.
                (II) Division.
            b. In quality.
                (I) *Ambiguous Middle* (Specific accident).
                (II) Simple accident.
                (III) Converse accident.
        2. Presumption.
            a. Begging the question (Petitio Principii).

(I) *Assumption of unproved premise* (Assumptio non probata).
(II) *Arguing in a circle* (Circulus in probando).

b. *Irrelevant conclusion* (Ignoring the question) (Ignorantio Elenchi).
(I) Argumentum ad hominem.
(II) Argumentum ad populum.
(III) Argumentum ad ignorantiam.
(IV) Argumentum ad verecundiam.
(V) Argumentum ad judicium.

c. Complex question.

d. Non sequitur (False consequent).
(I) Simple.
(II) *False Cause* (Post hoc ergo propter hoc).

**I. Definition and classification.** A fallacy is an error in reasoning. In a strictly logical sense the term fallacy can be applied to no other kind of error. It is usual, however, in discussing fallacies, to consider certain definite errors in interpretation as well as errors in reasoning. Indeed logicians usually preface their comments on these errors with the statement that the proper place to deal with them is in a book on rhetoric. They are variously classified as "errors in interpretation," "hermeneutic fallacies," etc. We shall classify them as *rhetorical* fallacies, to distinguish them from the errors in reasoning, which we shall call *logical* fallacies. Considerable search has failed to discover any two writers who use classifications of fallacies which are the same in all respects. Nor does the classification given here follow in detail any given elsewhere. It is, however, in the main identical with those given by Hyslop[1] and Creighton.[2] The amount of time that can be profitably spent in studying a rather complete list of fallacies, will vary with different classes. But the avoidance of fallacies in our own reasoning, and the

[1] Page 227. [2] Page 154.

detection of them in the reasoning of others are of such vital importance that it seems well to give the student of argumentation at least an opportunity to learn the nature of the most common dangers. The twelve fallacies printed in italics in the above table should be carefully studied. This classification is not put forward as all-inclusive, nor are its divisions deemed to be mutually exclusive. A given fallacy may be classified under different heads, according to the standpoint from which it is viewed. It is thought, however, that this classification is better than others hitherto published with respect to completeness, terminology, and logical division.

**II. Rhetorical fallacies,** or errors of interpretation, are faults of understanding, not of reasoning. They are mistakes in interpreting propositions. They are not errors in "any process or act of the mind by which, from knowing *one thing*, it advances on to know *another*." [1] There is no advance toward a new thing. The inference (if inference at all) involved here is immediate inference. No new truth is developed. No steps in reasoning are taken. For instance, in getting the proposition "Some quadrupeds are horses" from the proposition "All horses are quadrupeds," we are doing no reasoning, inferring no new truth. The first statement is the result of the interpretation of the second, not of reasoning from the second as a basis.

**A. Incorrect obversion.** Obversion of a proposition means changing it from affirmative to negative or from negative to affirmative without changing its meaning. For instance, "All of the campers were asleep"—"Not one of the campers was awake." "Not one of the specimens was perfect"—"All of the specimens were imperfect." The fallacy of *illogical obversion* arises when we fail to understand the exact meaning of the first proposition or some of its terms, and consequently get an obverse that does not mean the same thing as the original. "All University men are

[1] Newman (italics not in original).

eligible" does not mean necessarily "No non-University men are eligible," but "No University men are ineligible." To avoid the fallacy of illogical obversion, *we must change the predicate only.* The use of the negative of the original subject gives illogical obversion. To state the rule technically: instead of affirming a predicate as true *of a given subject,* we may deny its negative in regard to *the same subject;* instead of denying a predicate *of a given subject* we may affirm the negative of this predicate in regard *to the same subject.* "All citizens *will be admitted,*" logically obverted gives us "No citizens *will be refused admission*"; illogically obverted it results in "No aliens *will be admitted.*"

**B. Incorrect conversion.** Conversion of a proposition means transposing its subject and predicate without changing its meaning. "No seniors are members of the club"—"No members of the club are seniors." The fallacy of *illogical conversion* arises when we fail to grasp clearly the limitations on the terms of the first proposition and give some term a wider application in the second proposition than it had in the first. Technically it is an error in distribution of terms. If the second proposition distributes a term which was not distributed in the first, the fallacy of illogical conversion is committed. The statement that "All brave men are generous" does not mean that "All generous men are brave." From "All horses are animals" it does not follow that "All animals are horses" but that "Some animals are horses." "In the heat of debate, or when using propositions without proper attention, there is a natural tendency to assume that a proposition which makes a universal statement regarding the subject, does the same with regard to the predicate. And, although such errors are very obvious when pointed out,—as, indeed, in the case with nearly all logical fallacies,—they may very easily impose on us when our minds are not fully awake, that is, when attention is not active and consciously on guard." [1]

[1] Creighton, pp. 155, 156.

C. "**The fallacy of amphibology** consists in an ambiguous grammatical structure of a sentence, which produces misconception. A celebrated instance occurs in the prophecy of the Spirit in Shakespeare's *Henry VI.*: 'The Duke yet lives that Henry shall depose,' which leaves it wholly doubtful whether the Duke shall depose Henry, or Henry the Duke. This prophecy is doubtless an imitation of those which the ancient oracle of Delphi is reported to have uttered; and it seems that this fallacy was a great resource to the oracles who were not confident in their own powers of foresight. The Latin language gives great scope to misconstructions, because it does not require any fixed order for the words of a sentence, and when there are two accusative cases with an infinitive verb, it may be difficult to tell, except from the context, which comes in regard to sense before the verb. The double meaning which may be given to 'twice two and three' arises from amphibology; it may be 7 or 10, according as we add the 3 after or before multiplying. In the careless construction of sentences it is often impossible to tell to what part any adverb or qualifying clause refers. Thus, if a person says, 'I accomplished my business and returned the day after,' it may be that the business was accomplished on the day after as well as the return; but it may equally have been finished on the previous day. Any ambiguity of this kind may generally be avoided by a simple change in the order of the words; as, for instance, 'I accomplished my business, and on the day after returned.' Amphibology may sometimes arise from confusing the subjects and predicates in a compound sentence, as if in the sentence, 'Platinum and iron are very rare and useful metals,' I were to apply the predicate useful to platinum and rare to iron, which is not intended. The word 'respectively' is often used to show that the reader is not at liberty to apply each predicate to each subject." [1]

D. "**The fallacy of accent** consists in any ambiguity arising from a misplaced accent or emphasis thrown upon

[1] Jevons, pp. 172, 173.

some word of a sentence. A ludicrous instance is liable to occur in reading Chapter XIII. of the First Book of Kings, verse 27, where it is said of the prophet, 'And he spoke to his sons, saying, Saddle me the ass, and they saddled *him*.' The Italics indicate that the word *him* was supplied by the translators of the authorized version, but it may suggest a very different meaning. The Commandment, 'Thou shalt not bear false witness against thy neighbor,' may be made by a slight emphasis of the voice on the last word to imply that we are at liberty to bear false witness against other persons. Mr. De Morgan, who remarks this, also points out that the erroneous quoting of an author, by unfairly separating a word from its context, or italicising words which were not intended to be italicised, gives rise to cases of this fallacy.

"It is curious to observe how many and various may be the meanings attributable to the same sentence according as emphasis is thrown upon one word or another. Thus the sentence, 'The study of Logic is not supposed to communicate a knowledge of many useful facts,' may be made to imply that the study of Logic *does* communicate such a knowledge although it is not supposed to do so; or that it communicates a knowledge of a few useful facts; or that it communicates a knowledge of many *useless* facts. This ambiguity may be explained by considering that if you deny a thing to have the group of qualities A, B, C, D, the truth of your statement will be satisfied by any one quality being absent, and an accented pronunciation will often be used to indicate that which the speaker believes to be absent. If you deny that a particular fruit is ripe and sweet and well-flavored, it may be unripe and sweet and well-flavored; or ripe and sour and well-flavored; or ripe and sweet and ill-flavored; or any two or even all three qualities may be absent. But if you deny it to be ripe and sweet and *well-flavored*, the denial would be understood to refer to the last quality. Jeremy Bentham was so much afraid of being misled by this fallacy

of accent that he employed a person to read to him, as I have heard, who had a peculiarly monotonous manner of reading."[1]

**III. Logical fallacies** are errors in reasoning or inference, as distinct from errors in interpretation. There are two classes of logical fallacies—formal and material.

**A. Formal fallacies** arise from a violation of the rules of the syllogism. To detect them it is necessary only to be familiar with the formal laws of reasoning. Knowledge of the subject-matter dealt with in the argument is not essential. Formal fallacies consist in violations of the rules of the syllogism which have been given in an earlier chapter. In enumerating and illustrating here the fallacies that are associated with these rules, it is probably well to follow the subdivisions indicated in our classification: categorical, hypothetical, and disjunctive syllogisms.[2]

**1. In categorical syllogisms.** A categorical syllogism is one in which all the propositions are categorical propositions. A categorical proposition is an absolute, declarative, positive statement admitting no conditions or exceptions. "All men are mortal. John is a man. John is mortal." These are categorical statements. Six fallacies arise in categorical syllogisms.

**a. Four terms.** "*Every syllogism has three and only three terms.*" A fallacy arises when a fourth term is used. It is so obvious when all four terms are quite distinct that there is little danger of any one's being deceived by it. As in:

Frenchmen are Europeans.
Germans are Caucasians.
Therefore Frenchmen are Caucasians.

But we commit the fallacy just the same when we have verbally only three terms, if in reality we have four, by using one term in two different senses. "The terms must be three,

[1] Jevons, pp. 174, 175.

[2] See also "dilemma" in Chapter on Refutation.

not only with regard to the letters and the words, but even with regard to the meaning. For example:—

"Mouse is a monosyllable;

"A mouse eats cheese;

"Therefore a monosyllable eats cheese.

Here we have apparently only three terms, viz., 'Mouse,' 'monosyllable,' and a 'creature that eats cheese'; but in reality we have four terms, for the word 'mouse' means two different things. In one case it means an animal, in the other case it means a word. It is not true to say that the animal 'mouse' is a monosyllable, nor that the word 'mouse' eats cheese." [1] The overlapping of the divisions in our classification of fallacies is shown by the fact that this fallacy may also be classed as the material fallacy of equivocation called ambiguous middle.

**b. Undistributed middle.** "*The middle term must be distributed once at least.*" The fallacy arising from failure to observe this rule is sometimes called *illicit middle* or *illicit process of the middle term.* A term is distributed when the whole of it is referred to universally.

Frenchmen are (some) Europeans;

(Some) Europeans are Teutonic;

Therefore Frenchmen are Teutonic.

The middle term, Europeans, is undistributed here. The conclusion is therefore erroneous, in spite of the truth of the premises.

Frenchmen are Europeans;

(All) Europeans are Occidentals.

Therefore Frenchmen are Occidentals.

Here the middle term is distributed in the major premise. The conclusion is correct.

**c. Illicit major.** "*No term must be distributed in the conclusion which was not distributed in one of the premises.*" Violations of this rule are called the fallacies of *illicit major* when the major term is so treated.

[1] Bodkin, p. 39.

Horses are animals;
Cows are not horses;
Therefore cows are not animals.

The major term, animals, is here used in the premise to denote *some* animals. Horses are a part of the animals of the world. In the conclusion the term animals is used universally, or covering *all* of the animals of the world.

**d. Illicit minor.** The fallacy of illicit minor consists in distributing the minor term—giving it a wider application—in the conclusion when it was not distributed in the minor premise—as in,

All Senators are at least thirty years old;
All Senators are voters;
Therefore all voters are at least thirty years old.

**e. Negative premises.** "*From negative premises nothing can be inferred.*" This "rule is evidently founded on the principle that inference can proceed only where there is agreement, and that two differences or disagreements allow of no reasoning." [1] A is not B, and C is not B, may both be true statements and A and C may or may not agree with each other. "Democratic Senators did not vote for this bill; Senator A did not vote for this bill; therefore Senator A is a Democratic Senator." The fallacy is here very evident. The major premise simply tells us that Democratic Senators and those who voted for the bill are in separate classes. The minor premise tells us that Senator A is not in the latter class. But he may or may not be in the former class. Jevons [2] gives a warning that must never be lost sight of in dealing with negative premises. "It must not be supposed that the mere occurrence of a negative particle (*not* or *no*) in a proposition renders it negative in the manner contemplated by this rule. Thus the argument:

'What is not a compound is an element;
'Gold is not a compound;
'Therefore gold is an element,'

[1] Jevons, p. 133. [2] P. 134.

contains negatives in both premises, but is nevertheless valid, because the negative in both cases affects the middle term which is really the negative term not-compound."

**f. Particular premises.** "*From two particular premises no conclusions can be drawn.*" "*If one premise is particular, the conclusion must be particular.*" Particular propositions are those in which the predicate is affirmed of a part only of the subject, those in which the subject is qualified by "some" "a few," "the majority of," "most all of," etc. "The remaining rules of the syllogism, the 7th and the 8th, are by no means of a self-evident character, and are, in fact, *corrollaries* of the first six rules; that is, *consequences*, which follow from them. . . . We may call a breach of the 7th rule *a fallacy of particular premises*, and that of the 8th rule the *fallacy of a universal conclusion from a particular* premise, but these fallacies may really be resolved into those of Illicit Process, or Undistributed Middle." [1] Since these fallacies, when tested, always turn out to be due to illicit distribution of terms, we shall not take space to treat them further under this head.

**2. In hypothetical syllogisms.** A hypothetical syllogism is one in which the major premise is a hypothetical proposition, and the minor premise a categorical proposition. A hypothetical proposition asserts something not directly and positively, but subject to some condition or limitation. Example:

If A paid the hotel bill, B owes A $10.00.

A paid the hotel bill.

Therefore B owes A $10.00.

The part of the major premise expressing the condition or supposition is the *antecedent;* the part stating the result is the *consequent.* Sound reasoning is obtained in this form of argument only when *the minor premise either affirms the antecedent or denies the consequent.* Two fallacies are therefore to be specially guarded against here.

[1] Jevons, p. 135.

**a. Denying the antecedent.** Whenever the minor premise of a hypothetical syllogism denies the antecedent the reasoning is fallacious. For example:

If he has sold out, he will pay.

He has sold out. — He has not sold out.

Therefore he will pay. — Therefore he will not pay.

Notice that when we affirm the antecedent ("he has sold out") it follows necessarily that "he will pay." But when we deny the antecedent, "he has not sold out," it does not follow necessarily that "he will not pay." The major premise does not say that he will not pay unless he sells out. He may pay any way. So in the following:

If he passed the examination, he is eligible.

He passed the examination. — He did not pass the examination.

∴ He is eligible. — ∴ He is not eligible.

He may have had other ways of becoming eligible—daily average, outside reading, etc. Whenever the antecedent is denied the conclusion does not *necessarily* follow—the reasoning is fallacious. The conclusion may or may not be a *true statement.*

**b. Affirming the consequent.** Whenever the minor premise of a hypothetical syllogism affirms the consequent the reasoning is fallacious.

If he were well, he would write.

He has not written. — He has written.

∴ He is not well. — ∴ He is well.

Notice that when we *deny* the consequent, "he has not written," it follows necessarily that "he is not well," but when we *affirm* the consequent it does not follow that "he is well." The major premise did not say that he would not write unless he were well. He might write anyway. So in the following:

If the winter has been severe, the birds will be dead.

The birds are not dead. — The birds are dead.

∴ The winter has not been severe. — ∴ The winter has been severe.

If the major premise is true, finding the birds alive proves the winter has not been severe; but finding them dead proves nothing about the severity of the winter. They may have died from other causes. But notice that you cannot say "they might have been *kept alive* by special causes," for this is denying the truth of your major premise.

**3. In disjunctive syllogisms.** A disjunctive syllogism has a disjunctive proposition for a major premise, and a categorical proposition for a minor premise. A disjunctive proposition is one in which the predicate is made up of a series of two or more words, phrases, or clauses expressing opposition or separation, as in: A is either B or C or D. "A disjunctive proposition is one which implies or asserts an alternative in the relation between the subject and predicate; as, 'A is either B or C,' or 'Metals are either hard or soft.' The symbols of the disjunctive proposition are *either* and *or*." [1]

**a. Imperfect disjunction.** In disjunctive arguments the fallacy of imperfect disjunction arises whenever the disjunction expressed is not both *exhaustive* and *mutually exclusive.*

Since "the affirmation of one of the alternatives, as the disjunctive syllogism informs us, *involves the denial of the rest;* and conversely, the denial of all the other alternatives is equivalent to the affirmation of the one that remains," [2] we commit the fallacy whenever we fail to mention possible alternatives, or when those mentioned overlap.

He is either slow-witted or lazy.

He is lazy.

∴ He is not slow witted.

This is fallacious—the alternatives are not mutually exclusive—a person may be both slow-witted and lazy.

All voters are either democrats or republicans.

He is not a democrat.

∴ He is a republican.

[1] Hyslop, p. 119.

[2] Bode, p. 91. Italics ours.

Here the fallacy arises from the fact that the disjunction does not exhaust the possibilities. He may be a socialist, a prohibitionist, or a member of some other party, or of none.

The fallacy of imperfect disjunction, while usually listed as a formal fallacy, might well be considered a material fallacy of presumption. The fault lies in the *matter*—the false assumption in the major premise. Grant the truth of these premises and the conclusions follow.

**B. Material fallacies** arise outside of the form of the argument, and are involved in the matter dealt with. "The formal laws may be conformed to, but owing to some ambiguity of meaning or assumption of facts which are not true the conclusion may be materially vitiated in spite of the correctness of the formal reasoning. The material fallacy can be detected only by those who are familiar with the subject-matter of the discourse or argument." [1] Material fallacies are divided into two groups—fallacies of equivocation and fallacies of presumption.

**1. Fallacies of equivocation** are caused by the equivocal or ambiguous use of terms. "I have divided them into two classes, those of *quality*, or accident, and those of *quantity*. Those of quality or accident are so called because the fallacy arises from some confusion due to differences of meaning in regard to the *attributes* denoted by a term in a proposition. Thus, if I say "Iron is a metal," I affirm "metal" of it in its proper form, as an aggregate of certain qualities or attributes. Now, if I also say "Rust is iron," I use the term "iron" in a slightly different sense, affirming that the substance, or *generic*, not the *specific*, qualities of it are identical with "rust"; that is to say "rust" is "iron" only in its substance, not in its form. This fact prevents me from drawing the conclusion that "Rust is a metal." The fallacies of quantity are so called because they are due to the different senses in which a merely numerical aggregate of *individuals* can be taken. Thus, "All the trees" may be taken collec-

[1] Hyslop, 223.

tively or distributively, and so give rise, as we shall see, to an equivocation. We consider this form of fallacy first in order, and it is perhaps the easier to detect. It is that of Composition and Division." [1]

**a. In quantity.** (I)" **The fallacy of composition** arises when we affirm something to be true of a whole, which holds true only of one or more of its parts when taken separately or distributively." [2] The difficulty comes from using the middle term distributively in the major premise and collectively in the minor premise. The following illustrate this fallacy:

All the angles of a triangle are less than two right angles.
A, B, and C are all the angles of a triangle.
∴ A, B, and C are less than two right angles.

In the major premise we mean that *each* angle is less than two right angles (the middle term is used distributively), in the minor premise we mean all the angles taken together (the middle term is used collectively). This fallacy is committed when we argue that what is true of the various states in the union is true of the United States as a nation, or that what is true of members of a class or college, taken as individuals, is true of the class as a class or of the college as an institution.

(II) **Division** is the opposite of composition. "It consists in assuming that what is true of the whole is also true of the parts taken separately." [3] For instance:

All the angles of a triangle are equal to two right angles.
A is an angle of a triangle.
∴ A is equal to two right angles.

The difficulty comes from using the middle term collectively in the major premise, and distributively in the minor premise.

Congress voted for X.
A is in Congress.
∴ A voted for X.

**b. In quality, or accident.** "It is important to keep these distinct from the fallacies of Composition and Division.

[1] Hyslop, p. 228. [2] Creighton, p. 160. [3] Creighton, 162.

The latter have to do with *numerical* or *mathematical* aggregates and individuals, the former with *logical* or *metaphysical* wholes which represent totals of attributes. Unless we keep this in view we are liable to confuse them. But if we remember that Composition and Division turn upon the collective and distributive use of terms, and the fallacies of Accident upon the confusion of *essentia* and *accidentia*, or genus and species (conferentia and differentia), or of the abstract and concrete, we shall have no difficulty in the judgment of particular cases. We divide the fallacies of Accident or Quality into three kinds." [1]

(I) **Ambiguous middle (specific accident).** In this fallacy we use the middle term ambiguously—that is, give it a different meaning in major premise and minor premise. Says Jevons,[2] "Equivocation consists in the same term being used in two distinct senses; any of the three terms of the syllogism may be subject to this fallacy, but it is usually the middle term which is used in one sense in one premise and in another sense in the other. In this case it is often called *the fallacy of ambiguous middle*, and when we distinguish the two meanings by using other suitable modes of expression it becomes apparent that the supposed syllogism contains four terms. The fallacy of equivocation may accordingly be considered a disguised fallacy of four terms. Thus if a person were to argue that 'all criminal actions ought to be punished by law; prosecutions for theft are criminal actions; therefore prosecutions for theft ought to be punished by law,' it is quite apparent that the term 'criminal action' means totally different things in the two premises, and that there is no true middle term at all. Often, however, the ambiguity is of a subtle and difficult character, so that different opinions may be held concerning it. Thus we might argue:

"He who harms another should be punished. He who communicates an infectious disease to another person harms

[1] Hyslop, p. 231.

[2] Pages 171, 172.

him. Therefore he who communicates an infectious disease to another person should be punished.

"This may or may not be held to be a correct argument according to the kinds of actions we should consider to come under the term *harm*, according as we regard negligence or malice requisite to constitute harm. Many difficult legal questions are of this nature, as for instance:

"Nuisances are punishable by law:

"To keep a noisy dog is a nuisance;

"To keep a noisy dog is punishable by law.

"The question here would turn upon the degree of nuisance which the law would interfere to prevent. Or again:

"Interference with another man's business is illegal;

"Underselling interferes with another man's business;

"Therefore underselling is illegal.

"Here the question turns upon the *kind of interference*, and it is obvious that underselling is not the kind of interference referred to in the major premise."

Such fallacies may rise in many ways. (A) We may confuse the etymological meaning and the common meaning of a word: as, for instance, the sophistical argument often founded on the word "representative."

"Perhaps no example of this can be found that is more extensively and mischievously employed than in the case of the word 'representative.' Assuming that its right meaning must correspond exactly with the strict and original sense of the verb 'represent,' the sophist persuades the multitude that a member of the House of Commons is bound to be guided in all points by the opinion of his constituents; and, in short, to be merely *spokesman:* whereas law and custom, which in this case may be considered as fixing the meaning of the term, require no such thing, but enjoin the representative to act according to the best of his *own* responsibility." [1]

(B) We may confuse two or more common meanings of the same word, where the word has different meanings in different

[1] Mill, *System of Logic*, p. 503.

circumstances. The word "democratic" in one connection is the name of a political party; in another it designates a body of political and social ideas and principles. So we argue falsely: all Americans should be democratic; consequently vote the Democratic ticket. The word "church" may mean the whole body of believers, or it may mean the officers of this body, viz., the clergy; and many false arguments may result from confusing these meanings.

There are many other sources of confusion from ambiguity in terms. Their variety and frequency only emphasize the necessity of careful definition. Definition is the weapon before which all ambiguity must fall.

"Nothing is more important than the subject of Definition, and too much stress cannot be laid on it. It is the keystone of all correct reasoning, and is most difficult. . . . This fault of not knowing the *precise meanings* of *words* is the most fruitful source of Fallacies. Nearly all the flaws in argument that are difficult of detection take their rise from this. Too much attention cannot be given to the matter of Definition. It is the true panacea for all false reasoning." [1]

(II) **Simple accident** consists in arguing from genus to species, from *essence to accident*, from abstract to concrete. To argue from genus to genus, from essence to essence is, of course, always sound. "One of the oldest examples of Simple Accident is the following:

"What you bought yesterday you eat to-day.

"You bought raw meat yesterday.

"Therefore you eat raw meat to-day.

De Morgan humorously remarks of this ancient illustration: 'This piece of meat has remained uncooked, as fresh as ever, a prodigious time. It was raw when Reisch mentioned it in the *Margarita Philosophica* in 1496; and Dr. Whately found it in just the same state in 1826.' It is not so accurate an illustration as is desirable according to the definition, because the subject of the major premise is so indefinite, and is hardly

[1] Bodkin, p. 145.

a genus. But in the conclusion the predicate is asserted of the subject, with the accidental quality of rawness added, while in the major premise that predicate is asserted only of the substance or essence of what was bought, and hence we mistakenly argue from meat in general, and without qualification to meat in a particular form. Another and perhaps better illustration is the following:

"Pine wood is good for lumber.

"Matches are pine wood.

"Therefore matches are good for lumber.

Here the predicate of the major premise is asserted of the substance or essence of 'pine wood,' not of all forms of it, while matches are pine wood not only in essence, but in a particular form or accident. . . . So also we cannot argue from the fact that oxygen and hydrogen will burn, that water will burn because it is oxygen and hydrogen. 'It would be a case of the simple fallacy of Accident to argue that a magistrate is justified in using his power to forward his own religious views, because every man has a right to inculcate his own opinions. Evidently a magistrate as a man has the rights of other men, but in his capacity of a magistrate he is distinguished from other men, and he must not infer of his special powers in this respect what is true only of his rights as a man.' All fallacies which attempt the substitution of a particular thing for the generic form belong to this head." [1]

(III) **Converse accident** arises when we argue from species to genus, from *accident to essence*, from concrete to abstract. "An illustration of the fallacy of Converse Accident is the following:

"Intoxicating liquors act as a poison.

"Wine is an intoxicating liquor.

"Therefore wine acts as a poison.

In this case we are arguing from the excessive use to all uses of wine, an inference that is fallacious. The major

[1] Hyslop, 232–234.

premise is true only of a particular mode of using liquors, or of the excessive use of them, while the conclusion, unless interpreted with a similar qualification, asserts the same thing of *all* forms of using them. 'It is undoubtedly true that to give to beggars promotes mendicancy and causes evil; but if we interpret this to mean that assistance is never to be given to those who solicit it, we fall into the converse fallacy of Accident, inferring of all who solicit alms what is true only of those who solicit alms as a profession.' Another formulated instance appears in the following illustration:

"Loyalty to the government is the duty of all citizens.

"Loyalty to Charles I. was loyalty to the government.

"Therefore loyalty to Charles I. was the duty of all citizens.

We may look at this instance in more than one way. In the first place, the major premise means that loyalty is a duty to legitimate governments or to such as execute the law, while the minor premise asserts the fact that loyalty to Charles I. was loyalty to the government whatever its nature was, and hence the conclusion asserts loyalty to Charles I. to be a duty without qualification, and without distinguishing between him as a magistrate and as a man. In the second place, loyalty to Charles I. may have been loyalty to him as a private person, say by his servants, while all citizens could not be loyal to him in this capacity, and so it is an error to argue from this particular kind of loyalty to every form of it including civil allegiance." [1]

**2. Presumption.** Fallacies of presumption arise from assuming or presuming something which needs to be *proved*, taking for granted something we have no right to take for granted. Examples follow of its main divisions and subdivisions.

**a. Begging the question (petitio principii).** This fallacy consists in assuming the truth of some proposition which is the same as, or equivalent to, the conclusion to be proved, and thence inferring the truth of the conclusion. It may

[1] Hyslop, 234.

take any one of several forms. The most common are: (I) assuming the truth of an unproved premise; (II) arguing in a circle.

(I) **Assumption of an unproved premise (assumptio non-probata).** It seems at first sight that no man would be so foolish or so bold as to assume the truth of his conclusion as one of the means of proving it. But names and phrases often cloak the error, and in the course of the intervening discussion the assumption may be forgotten before the conclusion is reached; so it is not always an easy fallacy to run to earth. Assuming the truth of some general proposition from which the particular conclusion in question must follow, is but another form of the same mistake. To take an example cited by John Ward: [1]

"So when the Clodian party contended that Milo ought to suffer death for this reason, because he had confessed that he had killed Clodius, that argument reduced to a syllogism would stand thus:

"*He who confesses he has killed another ought not to be allowed to see the light.*

"*But Milo confesses this.*

"*Therefore he ought not to live.*

"Now the force of this argument lies in the major or first proposition, which Cicero refutes by proving that the Roman people had already determined contrary to what is there asserted: '*In what City,*' says he, '*do these men dispute after this weak manner? In that wherein the first capital trial was in the case of the brave Horatius, who, before the city enjoyed perfect freedom, was saved by the suffrages of the Roman people, tho' he confessed that he killed his sister with his own hand.*'"

In this case the advocate who was prosecuting Milo assumed the truth of a general proposition, which included the particular proposition he sought to establish. He assumed that every man who has killed another ought to die, when it was admitted that Milo had killed Clodius. Cicero re-

[1] Volume I, p. 159.

futed the argument by pointing out the fallacy and showing that the general assumption was false, because the Roman people had in the past pardoned a man who had killed another.

(II) **Arguing in a circle (circulus in probando).** More common than the foregoing is the fallacy called "arguing in a circle." It is one of the frequent errors of careless arguers and a common trick for confusing a sluggish thinker. The fallacy consists in taking two propositions and using them each in turn to prove the other—as in trying to prove that a train is on time because it agrees with your watch, and then proving that your watch is correct because it agrees with the train.

The counsel for the plaintiff in the case of Ogden *vs.* Saunders argued in a circle, and was exposed by Mr. Webster:

"The plaintiff in error argues in a complete circle. He supposes the parties (in the making of a contract) to have had reference to it (the statute law) because it was a binding law, and yet he proves it to be a binding law only upon the ground that such reference was made to it."

Sir James Fitzjames Stephen, in his *Introduction to the Indian Evidence Act,* Ch. II, gives the following illustration:

"A ship is cast away under such circumstances that her loss may be accounted for either by fraud or by accident. The captain is tried for making away with her. A variety of circumstances exist which would indicate preparation and expectation on his part if the ship really was made away with, but which would justify no suspicion at all if she was not. It is manifestly illogical, first, to regard the antecedent circumstances as suspicious, because the loss of the ship is assumed to be fraudulent, and, next, to infer that the ship was fraudulently destroyed from the suspicious character of the antecedent circumstances."

**b. Irrelevant conclusion, ignoring the question (ignorantio elenchi).** This fallacy consists in mistaking the conclusion to be proved, or endeavoring to prove something which has no important bearing on the point at issue. One

is liable to fall into this fallacy either in positive proof in proving the wrong point or in refutation in proving something which is not the contradictory of the thing asserted by one's opponent. In one's own proof one may waste effort in the attempt to establish what is not worth establishing, or one may attempt to deceive by proving something so near like the real conclusion that it seems the same. In refutation, this error lies in mistaking the point to be answered, or in deliberately misrepresenting an opponent's position in order to make reply easier.

Mill cities the example of the refutation made against Malthus's theory of population:

"The attempts, for instance, to disprove the population doctrines of Malthus have been mostly cases of ignoratio elenchi—ignoring the point. Malthus has been supposed to be refuted if it could be shown that in some countries or ages population has been nearly stationary; as if he had asserted that population always increases in a given ratio, or had not expressly declared that it increases only in so far as it is not restrained by prudence, or kept down by poverty and disease. Or, perhaps, a great collection of facts is produced to prove that in some one country the people are better off with a dense population than they are in another country with a thin one; or that the people have become more numerous and better off at the same time. As if the assertion were that a dense population could not possibly be well off: as if it were not part of the very doctrine, and essential to it, that where there is a more abundant capital there may be a greater population without any increase of poverty, or even with a diminution of it." [1]

Webster, arguing for the prosecution in the White murder trial, exposed in an opponent the fallacy of ignoring the point, as follows:

"The prisoner's counsel catch at supposed flaws of evidence, or bad character of witnesses without meeting the case. Do they mean to deny conspiracy? Do they mean to deny that the two

[1] Mill, p. 517.

Crowninshields and the two Knapps were conspirators? Why do they rail against Palmer, while they do not disprove, and hardly dispute, the truth of any fact sworn to by him? Instead of this, it is made a mere matter of sentimentality that Palmer had been prevailed upon to betray his bosom companions and to violate the sanctity of friendship. Again I ask, Why do they not meet the case? If the fact is out, why not meet it? Do they mean to deny that Captain White is dead? One would almost have supposed even that, from some remarks that have been made. Do they mean to deny the conspiracy? Or, admitting a conspiracy, do they mean to deny only that Frank Knapp, the prisoner at the bar, was abetting in the murder, being present, and so deny that he was a principal? If a conspiracy is proved, it bears closely upon every subsequent subject of inquiry. Why do they not come to the fact? Here the defence is wholly indistinct. The counsel neither take the ground nor abandon it. They neither fly nor light. They hover. But they must come to a closer mode of contest. They must meet the facts and either deny or admit them." [1]

There are five common subdivisions of the fallacy of irrelevant conclusion. The mistake in each is the same—ignoring the real point in issue to argue about some other point. These five types follow.

(I) **Argumentum ad hominem** is an appeal or attack directed at the character, principles, beliefs, or statements of some person, rather than at the subject-matter in controversy. It is talking about a man when his character has nothing to do with the case, attacking the past record of a lawyer rather than the merits of *his client's* claim. Of course, when a man's character is a legitimate part of the case it should be discussed. An attempt to show personal unfitness of a candidate for the office he is seeking is not an example of this fallacy—or of any other.

(II) **Argumentum ad populum** is an appeal to the passion or prejudice of a people and so obscuring and avoiding the real question—as when national prejudice is aroused rather

[1] *The Works of Daniel Webster*, Vol. VI, p. 59.

than facts discussed in regard to national defence or international relations of any kind.

(III) **Argumentum ad ignorantiam** is practically a fallacious attempt to shift the burden of proof. It is saying, "What I say is true, because you cannot prove that it is not true." It is essentially a confusion of positive proof and refutation. To show that an opponent's case cannot be established is a proper kind of attack in argumentation; but it is only negative and destructive in nature. It proves nothing positive, and the fallacy consists in maintaining that the *lack of proof* that a proposition *is not* true, establishes that it *is* true. "Thus," says Creighton, [1] "we cannot prove affirmatively that spirits do not revisit the earth or send messages to former friends through mediums." But this does not prove that spirits do walk the earth.

(IV) "**Argumentum ad verecundiam** is an appeal to the reverence which most people feel for a great name. This method of reasoning attempts to settle a question by referring to the opinion of some alleged authority, without any consideration of the arguments which are advanced for or against the position. It is, of course, right to attach much importance to the views of great men, but we must not suppose that their opinion amounts to proof, or forbids us to consider the matter for ourselves.

"There is, however, a more common, though still less justifiable, form of the argument from authority.[2] A man who is distinguished for his knowledge and attainments in some particular field, is often quoted as an authority upon questions with which he has no special acquaintance. The prestige of a great name is thus attached to it. Thus, for example, a successful general is supposed to speak with authority upon problems of state-craft, and the opinions of prominent clergymen are quoted regarding the latest scientific theories." [3]

(V) **Argumentum ad judicium.** This fallacy is committed when the real question is ignored and an attempt

[1] P. 169. [2] See pp. 99–100. [3] Creighton, p. 170.

made to prove that men generally believe so and so. It is answering the proposition that the earth is round by proving that all men *believe* the earth is flat. If you put forward a proposition that admittedly is contrary to the general belief, it is no answer to you to prove what the general belief is. The fallacy consists in assuming that general belief cannot be wrong. Prevailing opinion creates a strong presumption in its favor, and places a heavy burden of proof on him who opposes it, but it does not settle all questions.

**c. Complex question.** This is a question founded on an assumption. It cannot be answered by "yes" or "no" without granting the truth of the assumption. "Are you again on speaking terms with your wife?" "Have you quit drinking to excess?"

**d. Non sequitur (false consequent).** This consists simply in asserting a conclusion that does not follow from the premises, because the conclusion has in it new matter that is not covered by the premises.

(I) **Simple non sequitur** arises when the conclusion covers new matter with no attempt made to show a cause and effect connection. "Jones is a good husband and father, so he ought to be elected mayor." "All men are rational. Socrates is a man. Therefore Socrates is noble."

(II) **False cause (post hoc, ergo propter hoc).** This is probably the most common and the most insidious form of non sequitur. The fallacy consists in assuming that because one occurrence *precedes another in time*, the one is the cause of the other. Here time order is mistaken for cause and effect connection. Many of the common superstitions of ancient and of modern times illustrate this fallacy. For instance, thirteen people sit at table together, and within a few months one of the number is accidentally drowned; immediately some one argues that the death is the effect of the thirteen sitting at meat together.

Again, it has recently been argued that, because the number of crimes perpetrated by negroes in the Southern states

has increased since educational opportunities were first offered to the negro, therefore the growth of crime is directly due to the growth of education. It certainly is not sufficient for the arguer to base his contention simply on the fact that *the one thing has followed the other*, and few thoughtful men will be inclined to accept the conclusion thus drawn. Until something more is done to show a definite causal connection, we may safely call this a *post hoc* fallacy.

The most common form of this fallacy, perhaps, is that used by the political arguer. It runs something like this: "Such and such a political party came into power at such a time, and for a number of years thereafter the country suffered from financial depression; therefore the policies and administration of this political party are the cause of the unfortunate state of affairs." Now, the statement may or may not be true, but the argument in the above form certainly contains a fallacy. To show that this fallacy does exist, and that the conclusion is not worthy of acceptance, it is necessary only to point out the fact that any one of a half dozen other causes might, at least as readily, have produced the same result.

An illustration will make clear the commonness of this kind of fallacy, and will also suggest the care that is necessary to guard against it. In *Harper's Weekly* for March 5, 1904, the editors noted the fact that various college presidents had estimated that "the college graduate has one chance in forty of 'succeeding in life,' whereas the man who hasn't been to college has only one chance in ten thousand." The inference naturally drawn from this statement is that the mere fact that a man secures a college education multiplies many times his chances for success. To this inference and to the possible fallacy that may lurk therein the editorial in question addresses itself as follows:

"Not many persons doubt any longer that an American college education is an advantage to most youths who can get it, but in

these attempts to estimate statistically what college education does for men there is a good deal of confusing of *post hoc* and *propter hoc*. Define success as you will, a much larger proportion of American college men win it than of men who don't go to college, but how much college training does for those successful men is still debatable. Remember they are a picked lot, the likeliest children of parents whose ability or desire to send their children to college is evidence of better fortune, or at least of higher aspirations than the average. And because their parents are, as a rule, more or less prosperous and well educated, they get and would get, whether they went to college or not, a better than average start in life. In order to make an estimate that would be really fair of what college does for boys, it would be necessary to compare the fortunes of two groups of boys from something like the same rank of life and of something like equal ability, one a college-taught group and the other not. But that cannot well be done. The colleges get the likeliest boys. If one boy out of a family of four goes to college it is the clever one. The boys who might go to college and don't are commonly the lazy ones who won't study. The colleges get nowadays a large proportion of the best boys of the strongest families. The best boys of the strongest families would win far more than their proportionate share of success even if there were no colleges."

## EXERCISE. CHAPTER 8

### FALLACIES

1. Hand in two specimens of copied matter from current newspapers, lectures, text-books, etc., each containing a fallacy, naming the fallacy, and writing an answer to the reasoning given.
2. Hand in one original example each of undistributed middle, illicit major, and illicit minor.
3. Hand in two examples each of the fallacies denying the antecedent and affirming the consequent.
4. Hand in one example each of ambiguous middle, begging the question, irrelevant conclusion, and false cause.

## SECTION C. ARRANGEMENT

## CHAPTER 9

### GENERAL PRINCIPLES OF ARRANGEMENT

### OUTLINE

A. Function of arrangement.
B. Three great rhetorical principles.
    1. Unity.
        a. Introduction.
        b. Conclusion.
        c. Discussion.
    2. Coherence.
        a. Order.
            (I) Subordination secondary materials.
            (II) Elevation primary materials.
        b. Connection.
        c. Summary.
    3. Emphasis.
        a. Emphasis and coherence.
        b. Methods of emphasis.
            (I) Emphatic places.
C. Special importance of these principles in argumentation.

**A. Function of arrangement.** Through the study of propositions, issues, and burden of proof, we have *learned what must be done.* Guided by an understanding of evidence, forms of arguments, and fallacies, we have *chosen the materials* with which to accomplish our task. We now come to the problem of *organizing these materials* into the most effective arrangement for the performance of this particular task. We have chosen our recruits and gathered them together; but that is all. Our army is only half made; it is but a confused and straggling mob. To tempt the fortunes of battle

with such an array would mean defeat. The forces must be organized into companies, regiments, divisions; they must be officered with captains, colonels, and generals, and at their head must be placed a commander, the master spirit of all; they must be drilled and disciplined and taught to know their rights and their duties. Organization is no more necessary in an army than is arrangement in an argument: every master of the art of war knows how to organize his forces; every master of the art of debate knows how to arrange his proofs. The results from lack of organization are the same in both,—confusion, wasted strength, and weakness. It is only by careful arrangement that ideas and evidence can be kept from self-contradiction and confusion, that their strength can be saved and directed to accomplish anything.

**B. Three great rhetorical principles.** To secure an effective arrangement of materials in argumentation, the old rhetorical principles of unity, coherence, and emphasis must be scrupulously observed. We shall consider first their special importance in argumentation, and then discuss (ch. 10) the rules of brief drawing and outlining the following of which will insure the observances of these principles.

**1. Unity.** It is essential to the success of any piece of argumentation that the *ultimate* effect produced by it upon the audience shall be a *single* impression, viz., the truth or falsity, the wisdom or unwisdom of *the proposition* under discussion. To achieve such a result our materials must be so arranged as to be a single unit of force. Little facts and great ideas must work together, each enforcing the other. Each fact must corroborate its fellows, and inconsistency must never appear. Everything must work for the single ultimate purpose of proving, not this idea or that, but *the proposition*. Proving a number of "main points" more or less connected with the question in hand will not do. It is *the proposition* that the affirmative must establish by proving (or gaining admission of) all the issues contained in it. It is *the proposition* that the negative must overthrow by prevent-

ing the establishment of one or more of the issues on which it rests. This is what is meant by unity in the whole composition.

**a. Introduction.** In any piece of argumentation the most vital force is obviously the proof itself,—the evidence and the arguments. It would, however, be a very defective effort which contained nothing else besides the giving of testimony and the manufacture of it into proof. These materials must be *introduced* in such a manner as will clear the way before them and place them in the field advantageously for action. This is the work of the divisions of the speech called the introduction. The purpose of introduction is to make clear the real nature of the question in controversy, why it is in dispute, how it is related to other problems, what the really significant facts are. Such an explanation presents the question to the audience as *a single complete problem*, distinguished from other problems; it fixes the proofs that are to follow in their true relations to the proposition and to each other by explaining what facts are vital in the case, how these facts may be proved, and how the disputant intends to create the proof. The word introduction as used here embraces all of the old division of the first part of a speech into introduction (or exordium), narration, and partition. By whatever name we call it, some preparation is needed before the work of the discussion can be well done. *The audience must know what the dispute is about, what are the issues to be decided, and what are the points of fact that decide them.*

**b. Conclusion.** In argumentation our work is seldom complete until we have gathered together the evidence and argument at the end of the discussion, to show how we have made good the promises and claims of the beginning; no long or elaborate work of argumentation is finished without a conclusion, or peroration. From the viewpoint of unity the conclusion is as indispensable as the introduction. It is practically impossible to bind together evidence, arguments,

and ideas of all kinds and degrees of importance, and make them work in harmony, simply by means of logical internal arrangement. There must be some other external force to weld them together and establish them in their true relations to one another and to the whole. The purpose of the conclusion is to do this final binding together of the many and varied elements of the proof. However perfect the introductory precautions, as evidence and arguments are marshalled in rapid succession, and as each fact and each idea is emphasized in its importance, the reader or hearer may lose his grasp on the case as a whole. He may believe this testimony or accept that idea and still his beliefs may be vague or hesitating about the conclusiveness of the proof as a whole. He is not yet brought to that place where he can be trusted to render a decision or to carry out his decision into action. It still remains to show that the proof of this point and that, though insufficient in themselves, when added together prove *the proposition.* The *cumulative* force of the whole proof must be displayed; evidence and arguments must be gathered together and finally delivered as one blow. This is the work of the conclusion, and if it is well done, the end is but a restatement—though in very different manner—of the beginning. The conclusion should usually be so related to the introduction that the proof seems in a way to lead around in a circle, so that in the end we arrive again at the point from which we started, the proposition.

**c. Discussion.** In addition to the work of the introduction and the conclusion, in giving unity to the composition, care must be taken in the choice of the material for the body of the discussion itself. But here the problem is very simple. If all the material *bears on* the proposition unity will be observed. The problem of making this bearing clear is largely one of coherence. Unity and coherence are closely related, and unity in the discussion might be said to be a by-product of coherence. The proposition is the heart of the whole composition; by relation to it all must be bound to-

gether in one. Consequently the materials should be so chosen and so arranged that every element is connected either directly or indirectly with the proposition, and the connection so clearly established that it will be understood without effort. If a fact or an idea is set up as if for its own sake or is left ambiguous in its bearing on the facts in issue, it turns attention in the wrong direction, gives a mistaken impression of the whole position taken by the arguer, and destroys the coöperation between the parts, which is necessary to unity. This whole problem of harmony within the proof itself is, however, largely a matter of proper subordination of the parts, and may better be treated under the heading of coherence.

**2. Coherence.** Closely akin to unity is the quality of coherence. The purpose of all argumentation is to convey ideas to others and make them believe or act as we want them to; and, however well settled our own conceptions may be, if we beget confusion in presenting them to others, our efforts are in vain. However truly the principle of unity is observed—however truly our facts and our inferences have a bearing on the proposition we uphold, this *bearing must be clear* to those we seek to influence or our argumentation is a failure. *The principle of coherence, then, demands that all the materials of the proof be so* (*a*) *ordered and so* (*b*) *connected as to make clear their relation to each other and to the proposition.*

**a. Order.** To have coherence we must first have order among the elements used. First things must come first, last things last. Big points must follow each other in proper succession, each with its subordinate little points properly grouped under it. The first thing to do to obtain order is to attend to what may be called "subordination."

**(I) Subordination of secondary elements.** We have seen, in the treatment of the finding of the issues, that in any argumentative composition, the proof is made up of materials of widely different values. There are some facts that are so

vital that, if we can make sure of them, they will establish our whole case; and there are others that, while truly valuable in the proper connection, have no meaning or importance in themselves. These secondary facts find the excuse for their introduction in that they serve to prove the existence of some other more important fact. It follows that to put them into the proof without making clear just what is their bearing on these other larger facts, and just what is the part they are intended to perform, is to lose their only value.

(II) **Elevation of primary elements.** In contrast with these materials of a secondary nature are those facts and ideas in the proof that are themselves of primary importance. The nature of the human mind is such that, in reasoning, there are always a few points that stand out boldly, while all else sinks into a background of support. Few readers or hearers can carry in mind and thoroughly assimilate more than a half dozen important ideas on any question in a single debate; so that the greatest care must be taken to enforce upon the attention and fix in the memory of auditors the facts in the case that are really decisive. They may be permitted to forget the details of evidence, but the existence of these decisive facts they must be compelled to remember. If a reader or hearer is really to comprehend the meaning of any proofs, he must be made to understand what is large and what is small, what is important and what trivial. Therefore, in arranging our materials: (1) We must first find out what are the critical points to be established. (2) Then these points must be elevated—made to stand out above all the rest of the proofs. (3) Finally, all the secondary materials must be subordinated and grouped about these centers of proof.

**b. Connection.** Order alone will not give coherence. The materials used must be properly *connected* or confusion is likely to result. This principle of connection is observed when the different elements are *woven together* properly.

Transitions must be arranged. *Connections* must be made. Not only must the horse be *before* the cart, but he must be *hitched* to the cart if the whole outfit is to be serviceable. Rarely is any one fact sufficient to establish another larger fact; more rarely is any one single fact or idea sufficient to establish the proposition. Usually the process is: many lesser bits of evidence are set forth to prove each larger fact; then a number of these larger facts *combine* and *coöperate* to prove the whole. Where the proofs are of such a nature, the effectiveness of the coequal facts depends, in large degree, upon the way in which they were made to *work together*. Transitional phrases, sentences, and paragraphs must be employed to ensure this coöperation. Much evidence, not intelligible in itself, becomes full of meaning and force when viewed in the light of other correlative evidence. In any part of the proof, then, it is important that such facts be not set forth till after those from which they get their importance, and that the vital connection between such facts be clearly evident. For a fact misunderstood or neglected when it is first given, "falls back dead" and is rarely called to mind again; it must in most cases be appreciated when it is given, or it is lost. Especially is this true of the treatment of the larger ideas in a composition. Often an audience listens inattentively for many minutes to a speaker who is giving his best energy to the establishment of some idea of the first importance, because they are not possessed of those other facts that they must know to realize the meaning of his proof.

**c. Summary.** For full coherence then it is necessary to arrange all the ideas, primary and secondary, in the proper *order* and to weave them all together with easy, *natural transitions*. A reader or hearer should not feel that he is being arbitrarily picked up, carried around, and dropped, at the whim of the speaker or writer; he should rather have the sensation of being led easily, yet firmly, along in the most natural paths of reasoning. Readers or listeners are easily confused by sudden breaks in the chain of reasoning, and

readily become lost if their mental scenes are shifted too suddenly. Listeners should know "where they are" in the case at all times. As the speaker proceeds, an audience should see the way opening gradually before them, and feel that each step is natural; so that when they have come to the end they will believe they have reached a proper destination. In arranging for the proper observance of this principle, then, we need to consider two requisites: (1) Proofs must be presented in such a logical order that every fact is clear in its full import *at the time when it is presented.* (2) Each idea must be verbally connected with the one preceding by such a natural transition that a single chain of reasoning runs all through the proof.

**3. Emphasis.** Well-directed emphasis is one of the prime qualities of all successful composition, and nowhere does it do a greater service than in argumentation. In the first place, as we have already seen, there are some things in our proof that are important and some that are trivial; emphasis distinguishes between them, magnifying the advantages of the former and minimizing the disadvantages of the latter. A disputant always has some points in his case that are strong and can be relied on, while he has others that are weak and vulnerable; emphasis gives prominence to his strong points and covers up his weak points.

**a. Emphasis and coherence.** Many qualities of arrangement that make for coherence are as truly matters of emphasis. In fact all three principles we are considering are very closely related. There are no sharp dividing lines between their provinces. Particularly do emphasis and coherence coöperate in bringing out the strength and in concealing the weakness of any case. The grouping of lesser facts around the greater, which is so essential to coherence, is equally important in emphasizing the important points in the proof. But, in addition to this discrimination between the lesser and the greater facts, it is also necessary to discriminate between the various more important points of

the proof. Some are more warmly contested than others, and the proof on these critical points must be made to stand out over everything else. Again, on some issues, one contestant or another has the weaker side for facts; available evidence may be against him, and he must conceal his defects. So it becomes necessary to know what are the ways of displaying strength, and of hiding weakness.

**b. Methods of emphasis.** The common methods of emphasis, as far as the several principles of arrangement are concerned, might be called the methods of *place* and *space*. The former means placing more important points in certain more emphatic positions. The latter means simply that we give more space in a manuscript, more time in a speech, to the important things and less space to the unimportant things. A combination of both place and space methods is of course better than either alone.

(I) **Emphatic places.** The emphatic parts of the proof are the beginning and the end. At the beginning the audience is expectant and critical, and the first impression is usually enduring. The importance of the beginning depends somewhat on the circumstances; but it is rarely safe to make a feeble beginning. The first impression must not be weak, for it too often creates a prejudice that is an obstacle to later progress. Sometimes the beginning is made exceptionally important by the necessity for an immediate answer to some argument advanced by an opponent. His arguments may have been so strong and may have made such an effect that the answer to them becomes a turning-point of the proof; the refutation of them must be made emphatic. This refutation may, if the answer is very strong, and if it concerns the most vital point of the whole question, be reserved till the end. But sometimes the arguments need to be answered at once, in order to remove hostility on the part of the audience, and in order to influence them favorably for the reception of the other proofs that are to come. In such cases both emphasis and tact require that the refutation be placed

at the beginning. The most important point should usually be placed at the end, for that is the position of maximum emphasis. At the end comes "the last word," the part which gives the final impulse to conviction and persuasion. The parts between are most easily forgotten; so it is the middle of the proof that receives what is to be neglected or concealed.

**C. Special importance of these principles in argumentation.** It may readily be seen from the preceding discussion of the general principles of arrangement that unity, coherence, and emphasis in argumentation imply more than in most kinds of composition. The fusing of a multitude of thoughts into one thought, the careful leading of a man's reason from one point to another, the indispensable discrimination between great and small, the painstaking establishment of unmistakable relations between each small fact and the whole question, the impressing of the few vital points on the attention and the memory,—all these tasks are exaggerated and made more critical than in any other kind of writing or speaking. It follows that much more care must be taken here than in other kinds of composition, in the arrangement of our materials, before we finally put them in rhetorical form for presentation. In description or narration, all the work of preliminary arrangement that may be desirable may be embodied in a short outline of a few headings. All that is needed may be a few rough jottings to state the main ideas and suggest the general lines of their development; facts, rhetorical figures, mental pictures may properly be left to the suggestion of the moment. In argumentation the requisities are very different. So much depends upon the *exact relations* of fact to fact and point to point, in order to make our appeals to the reasoning faculties clear and effective, that we must give much more time and consideration to the arrangement of our materials. We must not only arrange our main ideas and indicate the general trend of the development of these ideas, but also the details of fact and of explanation must be accurately estab-

lished in their proper relations with each other. To meet this special demand for attention to these principles in argumentation, we have special devices, the brief and the outline based on the brief. These are accurate, definite schemes which if followed will make evident the proper arrangement for practically perfect unity, coherence, and emphasis in each particular case.

# CHAPTER 10

## BRIEF DRAWING AND OUTLINING

### OUTLINE

A. What a brief is.
B. Purposes of a brief.
C. Brief is impersonal.
D. Legal brief drawing.
E. Brief and outline.
F. Rules for brief drawing.
G. Parallel column brief.
H. Complete sample brief.

**A. What a brief is.** A brief is a full and finished arrangement in logical order of the evidence and argument on a given side of a given case. It is not a preliminary outline on which to build a speech or essay. Every detail of evidence in the case is put into a properly drawn brief. *The brief is a finished article.* It contains a full and complete statement of the intellectual side of the case. Nothing need be added to it if we want a decision simply on the weight of evidence and the force of inference—and have a tribunal ready to give a decision on these things alone. So we might present briefs on a disputed question to a board of judges for decision without presenting any other manuscripts or making any speeches. All the *materials of proof* appear in a good brief. It is complete in the elements of conviction, and almost wholly lacking in the elements of persuasion as such. Except as some of the evidence may have a persuasive force, there is no persuasion in a brief.

**B. Purposes of a brief.** A brief may serve many purposes. Its most important use is that of presenting it to

judges as the whole statement of the case without additional comment of any kind. It may also be presented as the whole statement of the intellectual side of a case preliminary to arguing the question in full; or it may be presented as the complete statement of fact in a case preliminary to arguing general principles or points of law which should apply to such a case. For all these purposes in which the brief passes from the hands of the one who prepares it to a judge who is to decide the case, the brief should be complete and perfectly drawn. But this statement holds good also even when the case is to be presented by a speech or an argumentative article, pamphlet, or book. Putting the whole intellectual side of the case into the form of a perfect brief gives one *the best* opportunity really to know his case, all the details of it, its strength and weakness. A perfect brief exhibits the *relation* of every bit of evidence to the proposition and to every other bit of evidence in the whole case. It also shows the value and importance of each piece of evidence. It brings out the strong points, the points that are covered by more evidence than is necessary, and the weak points, the points that must be bolstered up with more evidence or very carefully handled in the presentation. So the preparation of a perfect brief is a most important part of the preparation of any case even if the case is to be presented orally.

**C. The brief is impersonal.** It belongs to and is determined by "the case." It is a true and unemotional arrangement of *all* the facts and arguments in the case. It is not and cannot be designed to fit a particular audience, without losing its chief characteristics which distinguish it from an outline. In fact we might say that a brief by its very nature is not adapted to any audience. While perfect brief form is probably the best method ever devised for presenting certain types of cases on paper, it is usually a very poor method of presenting any case orally. Getting ideas and impressions through the eyes from a printed page is very different from getting ideas and impressions through the ears from a living

voice. But granting all this, it still remains true that the preparation of a perfect brief should be part of the preparation of any important work in argumentation however it is to be finally presented.

**D. Legal brief drawing.** Legal briefs are drawn to be submitted to courts either to serve as the basis for oral argument or to be the complete presentation of the case, when decision is rendered without argument, merely on the briefs presented. "A brief is a document, prepared by counsel for the use of the court as a basis for oral argument of a cause; it contains a statement of the manner in which the questions in controversy arose, of the facts of the case so far as they relate to the questions; it is an outline of the argument, consisting of the propositions of law or fact to be maintained, the reasons upon which they are based, and citations of authorities in their support." [1] The rules of legal brief drawing are for the most part like the rules given in this chapter. One important exception, however, is that solid paragraphs containing many statements are usually used in legal briefs. So our rule No. 4 is not a rule of legal briefing. Many details of legal briefing are prescribed by law in various states, and while conventions as to form, etc., differ slightly in different states, it is true that the main principles of brief drawing in general argumentation are identical with the main principles of legal brief drawing as practiced by the best lawyers, through the country.

"In the typical legal 'brief on appeal' one looks for the following well-defined stages, or subdivisions:—

1. The Title.
2. The Preliminary Statement.
3. The Statement of the Case (sometimes termed 'The Facts').
4. The Specification of Errors.
5. The Brief of the Argument.

[1] Professor Henry S. Redfield in *The Brief on Appeal.* Quoted from *Brief Making* (The West Publishing Co., p. 219) by Maxcy, *The Brief*, p. 3.

The general form of the argumentative brief, as it has been developed in practice, follows closely after the legal model. It contains—

1. The Title.
2. The Preliminary Introduction.
3. The Main Introduction.
4. The Statement of Issues.
5. The Brief of the Argument.
6. The Conclusion." [1]

Notice that the first four of these parts are covered by an *introduction*, and that the fifth and sixth correspond to our discussion and conclusion respectively. Some legal briefs have "conclusions" in separate parts and some do not.

Dean Ballantine's twenty-one rules for legal briefing [2] show clearly how closely the rules for briefing in general argumentation follow those for the legal brief. Of course, the argumentative brief is an offspring of the legal brief. Here as in many other phases of argumentation we have generalized what the legal profession has worked out for its specific needs.

**E. Brief and outline.** After the impersonal brief is finished an *outline* should be drawn up for any speech that is to be presented. In drawing up the outline the speaker should always keep his particular audience in mind, and adapt his speech carefully to the audience which he must meet. In preparing an argumentative speech one may differ from the order of the brief as much as is desirable. It is a mistake to suppose that a brief is always a good outline for a speech. As a matter of fact it is rarely if ever so. An outline of almost any great argument will not coincide with a brief of the material in the argument. This is as it should be. The speech must fit the audience. It must be planned with great attention to considerations of persuasion. Men differ in their ways of presenting cases to audiences, and the same case must be presented to different audiences differently.

[1] Maxcy, pp. 6, 7.

[2] Appendix E.

In a speech we may wish to catch the attention and arouse interest in the very beginning by presenting the most striking piece of evidence we have. In a brief we are not confronted with the problem of getting the attention of the judge. In a speech we may wish to reserve certain explanatory matter until we are ready to present certain arguments, in a brief confusion would result if this were left out of the introduction and put into the discussion. So the outline of a speech should be made from a brief of *the case*, to meet the requirements of a certain situation. Time, place, audience, etc., should be carefully considered in the preparation of any speech—and should not be considered at all in the preparation of a brief. And the speech may differ from the brief as much as seems desirable in any given case. Of course in some cases the brief *may* be followed rather closely, and in many cases the *main lines* of the brief are followed. We should never so desert the brief that we fail to meet the requirements of unity, coherence, and emphasis in argumentation. In all cases the task of outlining the desired speech is relatively simple after a good brief of the case is completed, especially if the circumstances under which the speech is to be given are fully understood. We should *first* go over the brief and select those parts of the case which we wish to present to the particular audience which we have to meet. We may select almost wholly different portions for use in presenting the same case to different audiences. (A case on the honor system, for instance, to be presented first to students and later to faculty. One audience might grant without any argument the very points that would have to be argued at great length before the other audience.) *Second*, we should arrange these selected parts in whatever order seems most persuasive for the particular audience we have in mind, practically regardless of the arrangement of these parts in the brief. A knowledge of persuasion and of the principles of speech composition are of course of great value here. But as far as brief drawing is concerned the principle

to remember is this: *The brief is determined by the nature of the impersonal case which it is possible to build up on our side of the proposition; the speech outline (or the speech) is determined by the kind of presentation (both in substance and order) which it is most desirable to make to a particular audience or set of judges.*

**F. Rules for brief drawing.** The following seventeen rules cover the work of brief drawing. Each rule here should be strictly observed. Students should memorize these rules as stated and should be able to explain the reasons for each rule.

GENERAL RULES

1. The brief should be divided into three parts, *marked* respectively, introduction, discussion, and conclusion.

2. The ideas in the brief should be arranged in the form of *headings and subheadings.*

3. Each heading and subheading should be in the form of a *complete* statement.

4. Each heading and subheading should contain but a *single* statement. (Rare exceptions may be made to this in the case of literal quotations covering more than a single statement.)

5. Every coördinate series of statements should be arranged in order of *climax*, unless this violates time order in expository matter or logical order in argumentative matter.

6. The relation between the headings and subheadings should be indicated by means of margins, and letters, numbers, or other symbols.

7. No heading or subheading should be marked with more than one symbol.

8. All references and sources of information should be accurately stated in the brief, on the same page on which the information is given.

RULES FOR INTRODUCTION

9. The first part of the introduction should contain all the information necessary for an understanding of the discussion—history, definition, explanations, admissions, etc.

10. The last part of the introduction should contain a statement of the issues and of the partition.

11. The introduction should contain only statements the truth of which is admitted by both sides.

RULES FOR DISCUSSION

12. The discussion should contain all evidence and argument to be used on the given side of the given proposition.

13. In the discussion, each main heading should read as a reason for the truth or falsity of the proposition.

14. Each subheading, or series of coördinate subheadings, should read as a reason for the truth of the heading above it.

15. Objections to be refuted should be dealt with as they arise.

16. In phrasing refutation the heading should state clearly the argument to be answered, and the character of the answer to be made.

RULE FOR CONCLUSION

17. The conclusion should contain a summary of the essential points of the proof.

Let us consider each of these rules in connection with working out a brief on the negative side of the proposition: Resolved that the contract system of employing convict labor should be abolished.

**Rule 1.** *The brief should be divided into three parts, marked respectively, introduction, discussion, and conclusion.* In the last chapter we saw that in any piece of argumentation the important part is the proof itself, and that in order to secure unity it is necessary to subordinate the introduction and conclusion, making them simply a means to the more effective presentation of the points in the proof. In outline (A) it is evident that a part is introductory in nature, a part is a discussion of the proof, and part is merely a word of con-

clusion. The first step, then, is to separate the parts and show their relationship.

Negative (A)

The convict labor problem.
Necessity of employment. Experiments with different systems.
Effect of contract system on reformation.
Control by prison officers, habits of industry (regulations of the contract), and learning trades.
Competition with free labor under the different systems.
Competition under piece-price system.
Competition under contract system.
Public-account system.
Methods of removing evils of competition under contract system.
Contract system is the most profitable.
Examples.
On the whole the contract system is preferable to any other.

Taking this outline and separating the parts according to Rule 1 we have:

(B)

Introduction

The convict labor problem.
Necessity of employment. Experiments with different systems.

Discussion

Effect of contract system on reformation.
Control by prison officers, habits of industry (regulations of the contract), and learning trades.
Competition with free labor under the different systems.
Competition under piece-price system.
Competition under contract system.
Methods of removing evils of competition under contract system.
Contract system is the most profitable.
Examples.

Conclusion

On the whole the contract system is preferable to any other.

**Rule 2.** *The ideas in the brief should be arranged in the form of headings and subheadings.* To secure unity and coherence in a brief we found not only that it was necessary to consider the introduction and conclusion ancillary to the discussion itself, but also that it was necessary to arrange the material so that it will make clear what is important and what is subordinate. The most natural methods of securing this result is to arrange the material of the brief in headings and subheadings.

Take, for instance, this from (A):

Competition with free labor under the different systems.
Competition under piece-price system.
Competition under contract system.
Public-account system.

Although these points are made here as of equal value, it is obvious after a moment's observation that they are of unequal value. Take the first two headings: the second is certainly subordinate to the first, and should be so arranged. Evidently there is some *central idea* in this group of headings, and we must find this idea and state it in such a way that the minor points can all be grouped under it. What, then, is the central idea? It involves a comparison of the contract system and the other systems as regards its competition with free labor, and it may be stated as follows:

(C)

Competition with free labor is less harmful under the contract system than under the other systems.
Effects of competition under the piece-price system.
Effects of competition under the public-account system.
Ways of removing any evil effects under the contract system.

**Rule 3.** *Each heading and subheading should be in the form of a complete statement.* In (B) the most obvious fault is the lack of clearness. For the purpose of conveying the ideas

to any other person than the maker of the brief, the outline is useless. Take, for illustration, the introduction to this outline:

The convict labor problem.
Necessity of employment. Experiments with different systems.

Here no one of the statements carries a clear idea of what was in the mind of the writer. "Necessity of employment." What about it? Does the writer mean there is no necessity of employment, or that there is a general necessity? Employment for what purpose? Under what conditions? These questions and others may justly be asked, and the brief cannot be said to be even tolerable, until the ideas are so stated that they cannot be misunderstood. Evidently, the principal difficulty lies in the fact that the writer has failed to make his statements *complete.* A word, or even a number of words, taken out of their connection may often have a number of different meanings, and the way to *guard against vagueness and ambiguity* is to make complete sentences. Let us then expand these phrases into complete statements.

(D)

The problem of employment of the convict is one of the serious problems of criminology.
It is admitted that the convict must be employed in some kind of work. Several different systems of employment have been tried in this country; the most important of which are: the piece-price system, the public-account system, and the contract system.

**Rule 4.** *Each heading and subheading should contain but a single statement,* except in occasional cases of literal quotations.

Another common fault of brief drawing, and one closely akin to the one just considered, is that of crowding too much

into one heading. It is as important to have each heading a *single* statement as it is to have each heading a *complete* statement. Occasionally it may be allowable to quote directly more than a single statement and have this stand as one heading or subheading. But this must not be taken as permission to insert whole blocks of *undigested* quotations. Material taken from others should be boiled down to single statements or to properly related series of single statements. Clearness is greatly increased by living up to this rule very carefully. Take, for instance, the first point from the discussion (B):

Effect of the contract system on reformation.
  Control by prison officers, habits of industry (regulations of the contract), and the learning of trades.

Expanding this into complete statements in accordance with Rule 3 we have:

The contract system is effective in the work of reforming the criminal. Under this system criminals are under the direct and responsible control of the prison officers, and are taught habits of industry, for the regulations of the contracts prescribe these things. The criminals have an opportunity to learn practical trades.

The subordinate heading here is an incoherent jumble, or, as it may be called, a crowded heading. The results of a crowded heading are: a lack of evident connection between the different subordinate headings, and a similar lack of connection between the subordinate headings and the main heading. For instance, the statement "for the regulations of the contracts prescribe these things" evidently has no direct connection with the main heading, "The contract system is effective in the work of reforming the criminal," and to show justification for its presence in the brief some change must be made. This change must be made by a separation of the

different ideas of this heading into headings each containing a *single* statement. It would then read as follows:

(E)

The contract system is effective in the work of reforming the criminal.

Convicts are under the direct and responsible control of the prison officers.

The contract provides that the contractor shall have no control over the discipline of the prison.

The convicts are taught habits of industry.

The contract provides that they shall be continually employed.

Convicts have an opportunity to learn a practical trade.

**Rule 5.** *Every coördinate series of statements should be arranged in order of climax, unless this violates time order in expository matter or logical order in argumentative matter.* Suppose we have six coördinate statements, say of the third degree, 1, 2, 3, 4, 5, 6, under B. If this situation occurs in the introduction, when we are explaining the history of the question, and deals with incidents having a time order, we should follow the time order regardless of the climax or other considerations. If in the discussion our six coördinate points have to do with matter linked in a logical sequence,—have a cause and effect connection with each other—we must follow the logical order. In all other cases we should arrange them in climactic sequence, beginning with the weakest and ending with the strongest.

**Rule 6.** *The relation between the headings and subheadings should be indicated by means of margins, and letters, numbers, or other symbols.* Thus far we have seen the importance of so stating our headings that the main and the subordinate parts shall stand clearly in their proper relations. It is necessary to show the varying importance of the different parts by the indentation of the margins and by the use of symbols. In doing this some definite system ought to be

followed. In this book the system of marking will be as follows:

I.
A.
1.
a.
(I).
(A).
(1).

II.
A. etc.

Great care must be taken to see that *marginal indentations are always the same for symbols of equal order.* So all Roman numerals on a page should be in line, and the same for capital letters, arabic numerals, etc. *The statements should never run back to the left under the symbols.* All margins should be clear—the lower the order of importance of the statements, the shorter the lines used, so that the eye can quickly grasp the relation of all the statements on a page.

Outline (E), then, when these directions are carried out will read:

(F)

I. The contract system is effective in the work of reforming the criminal.
   A. Convicts are under the direct and responsible control of the prison officers.
      1. The contract provides that the contractor shall have no control over the discipline of the prison.
   B. The convicts are taught habits of industry.
      1. The contracts provides that they shall be continually employed.
   C. Convicts have an opportunity to learn a practical trade.

**Rule 7.** *No heading or subheading should be marked with more than one symbol.* In applying any system of lettering there is a common fault which leads to confusion, namely,

using more than one symbol for marking a single heading. For instance, in outline (F), the marking is done correctly; but a beginner in argumentation might easily fall into the mistake of marking it something as follows:

(G)

A. 1. Convicts are under the direct and responsible control of the prison officers.
2. The convicts are taught habits of industry.
3. Convicts have an opportunity to learn a practical trade.

In the first heading of (G) the reason in the mind of the writer for marking it A. 1 probably is the more or less vague idea that the three headings, numbered 1, 2, 3, are to be grouped together. He feels that these headings are more or less connected in meaning, so he puts in the letter A to indicate the connection. He allows A to stand for a grouping or summarizing statement which he has carelessly neglected to put into words. This can be his only excuse for putting in the extra letter, for otherwise it has no meaning whatever.

However, the use of the extra letter does not serve the purpose he has in mind. It does not make clear just *how* the subheads 1, 2, and 3 are connected, but confuses the reader by making him stop and guess what is the connection between them. If any such headings are really associated, the association can be made clear only by definitely stating the connecting idea, in a separate heading. By reference to outline (F) we see how the relation of the ideas is rightly expressed. The subheadings are clearly established in their proper relations to one another by stating in main heading I the larger idea of which they are subordinate parts. So we have the inviolable rule that no symbol should be put into the brief unless it marks a separate and distinct heading of its own.

**Rule 8.** *All references and sources of information should be accurately stated in the brief on the same page on which the*

*information is given.* Exact references (volume, number, page, etc.) to all authorities and particular sources of information should always be given *on the page of the brief which has the statement which they support.*

The method of inserting references to authorities is a matter of individual discretion rather than of rule or precept. The method may be adopted which is used in the text of the present volume, of putting numbers in the body of the text (or brief) with the title and exact citation of the authority appended at the foot of the page. Or, it is simpler, and just as clear, merely to insert the reference in the margin of the brief, opposite the heading in connection with which it is quoted. Probably the best method, on the whole, and the one to be recommended, is to add the reference at the end of the quotation or statement which it supports.

Whatever the method, the exact citation for every authority and particular source of information used should *always* be given.

We have now a fairly distinct idea of the general rules for arranging our ideas in the form of a brief. But there are certain particular requisites that are peculiar to the three divisions of the brief—the introduction, the discussion, and the conclusion. These three parts differ from one another in many ways, and must have certain rules of their own, in accordance with which they can best perform their respective functions.

### Introduction

**Rule 9.** *The first part of the introduction should contain all the information necessary for an understanding of the discussion—history, definition, explanations, admissions, etc.* The force of this rule is obvious from the very nature of the introduction. The introduction exists solely for the purpose of preparing the way for the effective operation of the actual proof; and it has obviously failed in its purpose if, when the evidence and arguments are presented to

the reader or hearer, by reason of his lack of information about the question, he is incapable of understanding the proof.

For an example take outline (B). We find, in the discussion proper, references to "the contract system," "the public-account system," "the piece-price system," terms which are meaningless to any man who has not given particular study to the question. Again, we find the most important points of the proof to be concerned with "reformation," "competition with free labor," and "profitableness"; these words have meaning in themselves, but we cannot see the force of the arguments brought forward concerning them, because we do not understand why these points are important or how they tend to prove anything about the proposition. The introduction in this case, in the first place, should have explained the import of these words whose meaning is not clear in the discussion, i. e., it should have explained the piece-price system, the public-account system, and the contract system.

This is the work that is necessary to the introduction, viz.: (1) a definition and explanation of the meaning of the words of the proposition, and of all the important terms in the question that need explanation in order to be perfectly clear in the discussion; (2) a narration of the history of the problem in dispute, if such a statement is necessary to make clear the real nature of the question.

The explanation of the terms of the question we are using might take form somewhat as follows:

(H)

INTRODUCTION

I. The problem of the employment of the convict is one of the serious questions of criminology.
   A. It is admitted that convicts must be employed in some kind of work.

B. Several different systems have been tried in this country.
   1. The principal systems are the piece-price system, the public account-system, and the contract system.

II. The three systems may be described as follows:
   A. The characteristics of the piece-price system are three:
      1. Contracts are made with persons, firms, or corporations, under which the prison is furnished with raw material.
      2. These raw materials are manufactured by the convicts at agreed prices per piece.
      3. The work is done wholly under the supervision of prison officials.
   B. The public-account system is as follows:
      1. The prison buys its own raw materials.
      2. The prison manufactures like a private firm, and sells in the best available market.
   C. The contract system involves the following characteristics:
      1. Contracts are made with persons, firms, or corporations, under which convicts are employed at certain agreed prices for their labor for fixed periods of time.
      2. The contractors are usually furnished by the prison with power and machinery.
      3. The convicts work under the immediate direction of the contractor, but subject to the supervision of the prison officials.

**Rule 10.** *The last part of the introduction should contain a statement of the issues and of the partition.* The work of explaining the nature of the question, and stating the points to be proved, is essentially the work that has been treated in Chapter 4 on the Issues. By analyzing the question, studying the history of its discussion, and picking out the points that are vital to the establishment of the proposi-

tion we may find that the settlement of the question depends on the decision of one vital issue, viz.: Is the continuance of the contract system detrimental to the general welfare of the State? And further that this question must be decided by comparing the system with other possible systems (since it is admitted that some system must be employed) on three points, viz.: What system gives the best financial returns? What system is most effective in reforming the criminal? What system has the most beneficial effect on the free labor of the State?

If the contract system can be shown on the whole to have the preponderance of virtue in these respects, it is the most desirable and should not be abolished. If, judged by these standards, it is inferior on the whole to some one of the other systems, it should be abolished. The explanation of the nature of the question and the statement of the issue might, then, take form as follows:

(I)

III. The issue is: Is the continuance of the contract system detrimental to the general welfare of the State?

A. This question must be decided by comparing the system with other possible systems (since it is admitted that some systems must be employed) on three points, viz.:

1. Are the financial returns unsatisfactory?
2. Is the contract system unsatisfactory in regard to the reformation of the criminal?
3. Does the contract system entail unnecessary injurious effects to the free labor of the State?

The amount of explanation required in a brief depends entirely upon the nature of the particular question. In outline (H) given above, the explanation of the nature of the question is short and takes the form of exposition. In treating any new or uncommon question, full and detailed explana-

tions would be required, in order to give the reader the information necessary to an understanding of the issue and of the question as a whole. In such a generally known question as that of the contract-labor system, little explanation was necessary, and that simply of an expository nature. But very often the explanation of the question takes the form of a narration of facts or a history of the question. In the court room it commonly consists of a narration of the leading facts of the case to be presented. In a discussion of the question, "*Resolved*, that United States senators should be elected by a direct vote of the people," the explanation would take a similar form. It would require a history of the origin of the Senate and of the existing form of election, and a narration of the events leading up to the agitation for popular election.

Finally, it is desirable to state the points which the disputant proposes to prove in order to establish his case. This is the part of the introduction called the partition. Though the points in the partition may well correspond quite closely with the statement of the issues, they are not always identical. With the addition of this statement of the points of the proof, the completed introduction might read as follows:

(J)

I. The problem of the employment of the convict is one of the serious questions for criminology.
   A. It is admitted that convicts must be employed in some kind of work.
   B. Several different systems have been tried in this country.
      1. The principal systems are the piece-price system, the public-account system, and the contract system.

II. The three systems may be described as follows:
   A. The characteristics of the piece-price system are three:

1. Contracts are made with persons, firms, or corporations, under which the prison is furnished with raw material.
2. These raw materials are manufactured by the convicts at agreed prices per piece.
3. The work is done wholly under the supervision of prison officials.

B. The public-account system is as follows:
1. The prison buys its own raw materials.
2. The prison manufactures like a private firm and sells in the best available market.

C. The contract system involves the following characteristics:
1. Contracts are made with persons, firms, or corporations, under which convicts are employed at certain agreed prices for their labor, for fixed periods of time.
2. The contractors are usually furnished by the prison with power and machinery.
3. The convicts work under the immediate direction of the contractor, but subject to the supervision of the prison officials.

III. The real question is, whether the continuance of the contract system is detrimental to the general welfare of the State.

A. The value of the system must be judged by three tests:
1. Are the financial returns unsatisfactory?
2. Is the contract system unsatisfactory in regard to the reformation of the criminal?
3. Does the contract system entail unnecessary injurious effects to the free labor of the State?

IV. The negative intends to prove its case by establishing four facts:

A. The contract system brings the best financial returns.

B. The contract system is effective in the work of reforming the criminal.

C. Any defects of the system can be remedied without destroying the system.

D. The contract system is the most desirable for its effect on the free labor of the State.

This introduction, of course, is susceptible to many changes and improvements leading up to the issues, perhaps if desired a fuller statement of the analysis, but it fulfils with reasonable accuracy the functions of a good introduction for this particular question. In addition to Rule 9, which is explanatory of the general nature of this part of the brief, it should be borne in mind that there are generally three things necessary in the introduction, in order to make it conform to this general rule: (1) a definition and explanation of all the terms of the proposition and of any other important terms in the discussion that need explanation; (2) an explanation of the nature and real meaning of the question as found by analyzing its essential parts, in such a way as to *lead up to* (3) (Rule 10) a statement of the issues and of the points to be proved by the disputant in establishing his case. These three elements of the introduction are, however, variable in importance, and their necessity is not in all cases so imperative as to make them all properly part of our Rules for Brief-drawing. But the statement of the issues and of the points to be proved in the discussion is so important as to justify the incorporation of it among the principles of good brief drawing. We have seen how indispensable it is for the disputant himself to find and understand the issue; it is also generally desirable that the reader or hearer understand them. For him, as for the writer himself, it is knowlege of the issue that helps him to get a clear view of the real question in its entirety; it is the issue that enables him to follow readily the subsequent development of the proof; it is by an understanding of the issues that he may be made to feel the force of the evidence and the arguments, and their full effect upon the proposition.

The work of explaining the issues is like the work of the mill-race. The waters of the river go rushing by with im-

pressive sound and force; but they do not make paper or spin cotton till the raceway gathers in their power and directs it straight at the turbine wheel. So evidence, arguments, and proof of all kinds may impress an audience with their volume and loud sound, but they do not actually convince anybody until they are controlled and effectively directed straight at the proposition. This is the true work of the issues. They are the agency by which the proofs given in the discussion are brought into connection with the proposition, in such a way that every blow in the proof strikes the question fairly and helps the disputant to win his cause. In a speech it is sometimes desirable, as a matter of tact, to conceal the points to be proved in the discussion; but such cases are exceptional, and are under all circumstances provided for in the outlining of the presentation rather than in the drawing of the brief.

**"Clash of opinion" in the brief.** If the proposition is accurately analyzed, each side will arrive at the "potential issues," the claims the affirmative must advance unless they are admitted by the negative. Wherever it is possible to get the admissions of the negative these should be stated by the affirmative to show the narrowing down to the actual fighting issues. The negative brief, of course, should recite the admissions after giving the potential issues, thus showing clearly the issues on which the argument is to turn. But a perfunctory statement of "the clash of opinion" for all briefs (in most of which probably one side gives not only its opinions but also those it *supposes* the opposition will hold) is superficial and worthless. Stating what you are ready to prove and what you expect the other side to *admit*, or what your opponent *must* prove and what you actually do admit, is quite a different thing. This is what should be given to show the actual issues rather than a carefully balanced "clash of opinion" which is in part mere guess-work.

**Rule 11.** *The introduction should contain only statements the truth of which is admitted by both sides.* To recur again

to the general principles of arrangement, the introduction never exists for its own sake, and does not properly contain the proof of the proposition. Particularly in brief drawing is it the servant of the discussion and merely preparatory in nature. If we put into it prejudiced statements, that an opponent must deny and that we must consequently support by proof, it is no longer an introduction, but merely one part of the discussion. We have destroyed our real introduction. This is a serious mistake, for with very few exceptions it is indispensable to success that the minds of judges or readers of the brief be prepared for the reception of the proofs before they are thrust upon them, and this work cannot be well done if the writer is actually arguing, and fighting an opponent all the way. There is nothing in the work of the introduction to a brief to require any prejudice or controversial attitude to make it effective. It is merely an explanation of the matters that are to be reasoned about in the discussion, and of the facts that must be known in order that the discussion may be understood. The writings and speeches of the masters of argumentative art all show their appreciation of the true functions of the introduction and of the desirability of keeping it free from signs of prejudice even in oral presentation. Although it may sometimes be helpful to put argument and evidence in at the beginning of *a speech*, it usually turns out in the end that it is just as well for us to withhold our proof till the discussion proper is reached, and use the introduction for its primary purpose only. In a brief this should always be done. It is no less important in the case of briefs prepared not for the use of others in deciding the case, but for the purpose of arranging, testing, and relating all the evidence and argument that might be used, as a step in preparation for oral or written presentation of the whole case to one or several different audiences. Here it is important that the writer keep his case clear by arranging an unprejudiced introduction.

### The Discussion

**Rule 12.** *The discussion should contain all evidence and argument to be used on the given side of the given proposition.* This rule is rather obvious when we understand the proper functions of a brief, and that arguing should not be done in the introduction of a brief. Of course, space does not permit us to *illustrate* this rule. It should be remarked here that the specimen brief given here is to illustrate correct form—not full and accurate substance. It is undesirable to insert into a text-book a full and complete brief on a big question.

**Rule 13.** *In the discussion, each main heading should read as a reason for the truth or falsity of the proposition.* The main headings of the discussion are the points of the partition and should be taken up in the order given in the introduction. They should be carefully phrased, so they may be connected directly with the proposition by the word "because." For instance, we may say (the negative statement of the proposition here, because we are working on a negative brief): "The contract system of employing convict labor should not be abolished, because

I. It brings the best financial returns.

II. It is effective in the work of reforming the criminal.

III. Any defects in it can be remedied without destroying the system.

IV. It is most desirable for its effect on the free labor of the State.

If there were an additional point of pure refutation it might read as follows:

V. The contention of the affirmative that (such and such a condition exists) is untenable.

**Rule 14.** *Each subheading, or series of coördinate subheadings, should read as a reason for the truth of the heading above it.* By a series of coördinate sub-headings is meant a coördinate series which *taken together* constitute a reason for

the heading above, as B is true because 1 and 2 are true. 1 alone is not a reason for B. Neither is 2. But 1 and 2 taken together make a reason. The relation between 1 and 2 may not be best expressed by "and." This situation obtains whenever we have subheadings that must be taken together. "When coördinated statements in a brief stand in contrast to one another, or in any suspended relation, the several related propositions constitute, in reality, a single compound argument, rather than a succession of equivalent contentions." [1]

Such a series must read as a reason, rather than each part of it so read, in order to comply with this rule. The symbols used to represent such a series should be not 1 and 2, but $1^1$ and $1^2$ or $A^1$, $A^2$ $A^3$, etc. As,

I_____ because

$A^1$_____ and

$A^2$_____.

The discussion contains the real proofs of the composition. These proofs are always of the nature of flights of stairs ascending from different directions toward the proposition. There are the smallest details of evidence, which serve to establish certain facts; these facts go to prove some larger facts; and so on, till all meet and are made one in the proposition itself.

Now there are two ways in which these proofs may be arranged to make clear this relation to one another. By one method we proceed from lesser to greater; the smallest details are stated first, then follow the facts these details are meant to prove, and finally the result of it all is stated in the proposition. C is true, hence B is true; B is true, hence A is true, and so on.

The other method is just the inverse of this. The fact that is directly connected with the proposition is put first;

[1] Maxcy, p. 29.

next come the facts that are the reasons for the truth of the facts that were first alleged; then, following in series, are the lesser and still lesser ideas, each statement reading as a reason for the truth of the statement next above it. A is true because B is true; B is true because C is true, etc.

The first methods may be illustrated briefly as follows:

a. The convicts are generally employed within the walls of the prison, and

b. The instructors employed by the contractors are under the control of the prison officers, and

c. The conditions of the employment of the convict are specified in the contract or by legislation: *hence:*

1. The system gives opportunity for proper control of the convicts, *hence:*

A. Deficiencies in reformatory methods and prison discipline can be remedied by careful administration, therefore:

III. Any defects in the contract system can be remedied without destroying the system.

The second method would make this part of the brief read as follows:

III. Any defects in the contract system can be remedied without destroying the system because,

A. Deficiencies in reformatory methods and prison discipline can be remedied by careful administration, for,

1. The system gives opportunity for proper control of the convicts, for,

a. The convicts are generally employed within the walls of the prison.

b. The instructors employed by the contractors are under the control of the prison officers.

c. The conditions of the employment of the convict are specified in the contract or by legislation.

For the purposes of drawing a *brief*, the second method, using the connectives "*for*" or "*because*," is clearly far better than the first, and should *always* be followed. In some cases[1] it is wise in presenting proof to conceal till the end the point that is being proved, but these cases are exceptional; and even where such concealment is desirable, it should be carried out in the final presentation, not in the making of the brief. The defects of the first method, which may perhaps be called the "hence and therefore" method, are obvious. When a brief or an argument founded upon such a brief is presented, the reader or hearer does not understand what the disputant is "driving at," till after long wanderings he reaches the point to be proved; then the reader is forced to go back over all the ground again, in order to estimate the real force of what he has been reading, and an audience, who cannot be given the privilege of hearing it explained again, have irretrievably lost many of the good points of the proof.

Again, the "hence and therefore" arrangement has the disadvantage of presenting a deceptive appearance to the eye. It puts the least important proof in the most prominent places and makes it hard to appreciate, at a glance, the real co-ördination of the points. Finally, it makes the work of lettering and numbering difficult.

**Rule 15.** *Objections to be refuted should be dealt with as they arise.* This means that in the brief we should weave in with our constructive work specific refutation of statements of our opponents whenever we know of them and are able to do so. In any part of the brief it is possible to introduce a point in refutation, by making one of the regular reasons read as an answer to a specific charge of the other side. For instance:

[1] See a, p. 308.

I .....because
A .....
B .....because
1 .....
2 .....because
a .....
b .....
c The charge that (.....)
is false, because
(I) .....
(II).....

Such a piece of refutation as c in this diagram can obviously be inserted anywhere, in any series of reasons, in any order of reasons, in any order of subordination. Of course, if the refutation is of the first order, it will stand as a main point in the discussion and so will be announced in the partition as a regular main point.

**Rule 16.** *In phrasing refutation the heading should state clearly the argument to be answered, and the character of the answer to be made.* This precept is of great importance, because it guards against a serious error. Refutation is the name that is given to any attack directed against the proof of an opponent. With the importance of refutation and the methods of handling it, we are not now concerned;[1] but there must always be more or less of it in any brief, and its effectiveness depends very largely upon the way it is introduced. The writer of a brief, knowing in his own mind what is the position of his opponent which he desires to assail, very naturally falls into the mistake of unconsciously attributing a like knowledge to others, and so goes on to array his answers, without making clear to his audience or readers just what it is he is answering, and *how* he is answering it. This carelessness often proves troublesome; for in order to make refutation achieve its purposes, it is necessary that the attention of an audience be first directed toward the *exact point*

[1] See chapter 15.

*in controversy*, in order that they may see the comparison of the two sides and so feel the destructive force of the answer.

For example, it is urged by opponents of the contract system, that the system enables the prison authorities and the contractors to become rich at the expense of the prisoners. In refuting this point, the student would be guilty of ambiguity if he should say, "The contract system does not allow the prison authorities and the contractors to become rich at the expense of the prisoners." It might very naturally be supposed from the statement that this is a point of positive proof rather than a point in refutation, that the writer is upholding this as one of the virtues of the system. This makes his proof weak, for he is "damning the system with faint praise." Again, this statement of the point might be interpreted to mean, that the writer was comparing the contract system with other systems, and declaring it to be preferable in this respect. As a matter of fact, what he means is, that the arguments made by his opponent to prove this objection to the contract system are false. To make his position clear and to bring his own arguments into proper contrast with those of his opponent, he should have stated his refutation somewhat as follows: "The objection that this system allows the prison authorities and the contractors to become rich at the expense of the prisoners is groundless, for, etc."

This is, in general, the desirable way to introduce refutation: (1) state briefly and clearly the argument to be answered; and (2) tell the nature of the answer. Then give the answer. As for instance, "The contention that free silver causes prosperity is founded upon a false assumption, for," etc. "The evidence of Madden that Swift was married to Stella Johnson is unreliable, for," etc. "The argument that the incorporation of labor unions will prevent strikes is weak, for," etc. Whatever the form of the statement, it should so proclaim the argument to be answered that the attention of a reader or hearer cannot be misdirected.

### The Conclusion

**Rule 17.** *The conclusion should contain a summary of the essential points of the proof.* The function of the conclusion in the brief is obvious from the work itself. Its duty is merely to sum up the essential points that have been established by the proof, and to make clear their bearing as a whole on the proposition. This work is best done by a summary in brief form, lettered and numbered.

The summary should generally contain a statement of all the main headings of the discussion, and of as many of the subheadings as are necessary finally to present the proof as a whole. An illustration of the form of such summary is given in the conclusion of the brief printed at the end of this chapter.

**G. Parallel column brief.** Before closing this chapter attention should be called to a new style of brief drawing which arranges the discussion in three parallel columns of inferences, facts, and sources. While this device seems to us not well adapted for use as a final form for the finished brief, it is an excellent scheme for enforcing and testing thoroughgoing analysis. It brings out with great clearness the three elements (arguments, evidence, and sources of information) that must be found in any well-drawn brief, and might well be used in preliminary exercises for training in accurate analysis. As a means of demonstrating the difference between bare assertions and substantial proof, it can be used to great advantage. The following illustration and brief comment is quoted from Professor F. B. Robinson's *Effective Public Speaking*.[1] The words "arguments" and "evidence" have been substituted for "inferences" and "facts" as the headings for the first two columns. In the first paragraph quoted (p. 239) for "issues" the student should read "points in partition."

[1] Pages 280–284.

| Arguments | Evidence | Sources |
|---|---|---|
| B. The permanent retention of the Philippines is desirable for economic reasons, for | | |
| 1. A valuable territory is acquired. | (a) The area is more than 115,000 square miles.<br>(b) Soil is very productive.<br>(c) Can support a population of 42,000,000—equal to that of Japan. | U. S. Survey.<br>Miller: Economic Conditions in the Philippines. |
| 2. Our foreign trade will increase, for<br>(a) Retention insures larger trade with the Philippines, | Increase since possession: In 1899, the Philippine Islands imported from us one out of thirteen millions and sold us one out of fifteen millions; in 1912, they imported from us twenty-one out of fifty-five millions, and sent us twenty-two out of fifty millions. | Miller, p. 368. |
| (b) Retention will insure access to the larger trade of the East, and | Philippines are located in trade routes.<br>Philippine harbors are good.<br>They are the best in the Pacific. | Worcester, p. 888.<br>Chamberlin, Philippine Problem, Ch. 7. |
| (c) The Eastern trade is desirable.<br>I. There is a great trade with Asia and especially China. | We alone exported to Asia and Oceania two hundred million dollars' worth in 1913. | Worcester, pp. 870–872. |

| Arguments | Evidence | Sources |
|---|---|---|
| 3. Home business and capital will be benefited, for | Exports to China from United States in 1914, thirty-five millions. | World Almanac, p. 219. |
| (a) Foreign exports support additional home production and<br>I. Employ more American labor,<br>II. Employ more American capital. | | |
| (b) American capital will invest in the Philippines, for<br>I. Capital will go where the home country guarantees protection. | See figures for investment of English capital in English colonies; German capital in German colonies, etc. | Statesman's Year Book. |

"The backbone of the inference column is made up of the issues.[1] Each one of them is an inference and all of the subordinate statements which are offered as supports are also inferences. These issues[1] should be examined systematically. . . . (a) Is each issue[1] distinct from every other one? (b) Are they all, taken together, adequate to lead you to infer the main resolution from them? (c) Are they properly supported? . . .

"The facts in the second column should be abundant. Furthermore, the source column must contain the names of witnesses and sources so that the acceptability, credibility, and conditions of observations may be passed upon. The place where the evidence is to be found should be noted in

[1] For issues read points in partition.

sufficient detail to enable others to get it readily and read it in context.

"For faults in reasoning, carefully read the inference column; to discover lack of facts, read the fact column; and to check up authorities and sources, consult the last column. This form of brief provides not only an orderly form-arrangement of material but also a basis of criticism."

**H. Complete sample brief.** The following brief while not complete as to details of evidence is correct in form, and ought to be a satisfactory model. It is not presented as complete or perfect or as approaching perfection, but it illustrates the principles that govern the making of a brief, effectively embodying the general laws of the arrangement of materials.

INTRODUCTION[1]

I. The problem of the employment of the convict is one of the serious questions of criminology.
   A. It is admitted that convicts must be employed in some kind of work.
   B. Several different systems have been tried in this country.
      1. The principal systems are the piece-price system, the public-account system, and the contract system.

II. These three systems may be described as follows:
   A. The characteristics of the piece-price systems are three:
      1. Contracts are made with persons, firms, or corporations under which the prison is furnished with raw materials.
      2. These raw materials are manufactured by the convicts at agreed prices per piece.
      3. The work is done wholly under the supervision of prison officials.

[1] The proposition is: "Resolved: that the contract system of employing convict labor should be abolished."

B. The public-account system is as follows:
   1. The prison buys its own raw materials.
   2. The prison manufactures like a private firm, and sells in the best available market.

C. The contract system involves the following characteristics:
   1. Contracts are made with persons, firms, or corporations, under which convicts are employed at certain agreed prices for their labor, for fixed periods of time.
   2. The contractors are usually furnished by the prison with power and machinery.
   3. The convicts work under the immediate direction of the contractor, but subject to the supervision of the prison officials.

III. The issue is: Is the continuance of the contract system detrimental to the general welfare of the State?

A. This question must be decided by comparing the system with other possible systems (since it is admitted that some system must be employed) on three points, viz.:
   1. Are the financial returns unsatisfactory?
   2. Does it fail to promote satisfactorily the reformation of the criminal?
   3. Does it entail unnecessary injurious effects on the free labor of the State?

IV. The negative intends to prove its case by establishing four facts:

A. The contract system brings the best financial returns.

B. The contract system is effective in the work of reforming the criminal.

C. Any defects of the system can be remedied without destroying it.

D. The contract system is the most desirable for its effect on the free labor of the State.

DISCUSSION

I. The contract system brings the best financial returns, because,
  A. The system avoids expenses necessary in the other systems, for,
    1. It avoids the expense of machinery.
    2. It avoids the necessity of supplying working capital.
    3. It avoids the employment of high-priced officials and salesmen.
    4. It avoids the risks and losses of trade.
    5. It diminishes opportunities for peculation, because,
      a. Extravagance and peculation are common under the other systems, for,
        (I) The Commissioner of Labor of New York declares, "The large outlay of funds under the public-account system gave opportunity for wholesale extravagance and peculation."
  B. The public-account system is seriously defective from a financial standpoint, for,
    1. In Illinois in four years and five months the loss to the State was $314,212.
    2. In New York it was found that the expenses of the sales department were such as to make the system financially impracticable.
  C. According to the report of the United States Commission of Labor, the income of this system is sixty-five per cent of the running expenses of the prison.
  D. The Commission, comparing this system with others, declares these returns to be more satisfactory than those from any other system, for,
    1. This Commission says, "In a financial sense the contract system is the most profitable of any to the State, except the so-called lease system."

II. The contract system is effective in the work of reforming the criminal, because,
  A. The convicts are under the direct and responsible control of the State, for,
    1. In every contract there is a clause providing that the contractor shall have no control over, and shall in no way interfere with, prison discipline.
    2. Punishment cannot be inflicted on the complaint of instructors without full investigation by the wardens.
    3. The penalty for any violation of the rules by a contractor or instructor is immediate dismissal.
  B. The system teaches the prisoner a practical trade by which he can earn an honest living after release, because,
    1. The Labor Commissioners of New York say that the convicts learn exactly the same trades and specialize in the same way as in factories and other places of work outside.
    2. It proved effective in Pennsylvania in teaching trades for practice after leaving the prison.
  C. It teaches habits of industry, because,
    1. Under it the convict must be constantly employed, for,
      a. The contractor engages to keep a certain number of men continually employed.
  D. The contract system promotes the health of the convicts, because,
    1. Mr. Pillsbury of New York says that the system is very beneficial to the health of the convicts, and that they leave the prison in better physical condition than when they came.

III. Any defects in the contract system can be remedied without destroying the system, because
  A. Deficiencies in reformatory methods and prison discipline can be remedied by careful administration, for,

1. The system gives opportunity for proper control of the convicts, for,
   a. The convicts are generally employed within the walls of the prison.
   b. The instructors employed by the contractors are under the control of the prison officers.
   c. The conditions of the employment of the convict are specified in the contract or by legislation.
2. The work of reform depends largely upon the character of the officers in charge.
3. The character of the officials can be improved by legislation, for,
   a. Making the offices non-partisan would remove inefficiency due to politics.
   b. Efficiency of the officers would be improved by making the term of office permanent during good behavior.

B. Any possible evils of competition can be remedied by legislation, because,
1. Competition can be prevented by limiting the production of any article by convicts to one-tenth of the total product in that State.
2. Competition could be lessened by providing for a greater diversity of products by the convicts, for,
   a. The Labor Commissioner of Massachusetts recommends this as a remedy.
3. Competition could be lessened by a law requiring the public advertisement for proposals for contracts, because,
   a. This would tend to prevent injuriously low prices in competition, for,
      (I) The advertisement of the proposals would raise the cost of production to the contractor by stimulating competition in bids for the labor.

IV. The contract system is the most desirable for its effect on the free labor of the State, because,

A. The argument that the competition of convict labor with free labor under the contract system is detrimental to the welfare of the State is weak, for,

1. The competition must exist under any system of employment, because,

a. The products of the convict must be sold in the market.

2. The competition is more serious under the public-account system, for,

a. Goods can be sold below the market price in competition, because,

(I) The State cannot be forced into bankruptcy.

(II) The whole cost of production is the cost of the material.

b. The tendency is to centralize manufactures on a few lines of production, for,

(I) It is impossible to manage many different lines of manufacturing.

c. The United States Industrial Commission says, "It has been shown by numerous investigations that under the public-account system there is greater competition with the products of free labor than under any other."

3. The competition is at least no less harmful under the piece-price system, because,

a. The Industrial Commission in their report of 1900 say that the piece-price system does not affect the competition with free labor.

b. The first biennial report of the Bureau of Labor of California declares that under the piece-price system the effects of competition were no different from the effects under the contract system.

c. The Prison Labor Reform Commission of New York stated that, in practical operation, the piece-price system was shown to be more oppressive to competitive free labor than the contract system.

d. In New Jersey this system was found to be worse in its competitive effects than the contract system.

B. It is conductive to the effective administration of the prison, for,

1. The officers of the prison are chosen solely for their efficiency as prison keepers, for,

a. They are not required to act as business managers, because

(I) The manufacturing is done under the direction of outside contractors.

2. The contract system restricts prisons to the use for which they are intended, for,

a. It relieves the management of the prison from the necessity of managing large manufacturing establishments, as under the other systems.

### Conclusion

I. The negative has proved the following:

A. The contract system brings the best financial returns, because,

1. It avoids expenses necessary in the other systems.
2. The public-account system is seriously defective financially.
3. The income from the contract system is sixty-five per cent of the running expenses.
4. Students of the subject declare that the returns are largest from the contract system.

B. The contract system is effective in the work of reforming the criminal, for

1. The convicts are under the direct control of the State.
2. The system furnishes a trade to the convict, and thus furnishes a means of honest livelihood on his release.
3. The convict is taught habits of industry.
4. The contract system promotes the health of the convicts.

C. Any defects in the contract system can be remedied without destroying the system, for,
1. Disciplinary and reformatory deficiencies can be remedied by careful administration.
2. Any possible evils of competition can be remedied by legislation.

D. The contract system is the most desirable for its effect on the general welfare of the State, for,
1. The argument that it introduces undesirable competition with free labor is weak.
2. It gives effective prison administration.

II. We therefore maintain that the contract system of employing convict labor should not be abolished.

## EXERCISE. CHAPTER 10

### BRIEF DRAWING AND OUTLINING

1. Write the introduction to a brief on some "campus topic."
2. Write the discussion of the brief mentioned in 1.
3. Hand in a complete brief of the material contained in Appendix E, 1.
4. Write a complete brief of material contained in Appendix E, 2.
5. Hand in, in the form of a parallel column brief, all of your material on one main point in the discussion of the brief of your original forensic.

6. Hand in a complete brief of the subject chosen for your original forensic.
7. Hand in three different outlines, showing the adaptation of the material in the brief on the campus topic to three different audiences—as for instance, the Freshman Class, the Faculty, the Board of Regents, or Trustees.
8. Hand in a complete outline of your original forensic, adapting the outline carefully to a particular audience and occasion, the characteristics of each of which shall be definitely set forth.

# SECTION D. PRESENTATION

## CHAPTER 11

### PERSUASION

### OUTLINE

I. Conviction and Persuasion in Presentation

A. The brief and presentation.
B. Conviction and persuasion.
C. Selecting parts of case for particular audience.

II. The Nature of Persuasion

A. Persuasion defined.
B. Persuasion in almost all argumentation.
C. Prejudice against an "emotional appeal."
D. Emotion in argumentation.
   1. Emotion the basis in practical issues affecting human conduct.
   2. Strong tendency of men to believe what they wish to believe.
   3. Emotions not belonging to the argument itself affect decisions.
E. Kinds of emotional appeals.
F. Classifications of emotions.

III. Practical Suggestions for Persuasion

A. The speaker.
   1. Know human nature.
   2. Personality.
   3. Sincerity or earnestness.
   4. Modesty.
   5. Self-control and reserve force.
   6. Fairness.

B. The subject.
  1. Fit audience and speaker.
  2. Handling subject-matter.
    a. Brevity.
    b. Simplicity.
    c. Vividness.
      (I) Reference to experience.
        (A) Vivid experiences.
          (1) Originally intense.
          (2) Frequent occurrence.
          (3) Frequently recollected.
          (4) Recent.
      (II) Concrete and specific.
    d. Variety.
      (I) Comparison and climax.

C. The audience.
  1. Adaptation to particular audience.
  2. Tact.
  3. Indirect appeal.
  4. Responsibility; facing the truth.
  5. The friendly audience.
  6. The hostile audience.
  7. Eight suggestions for persuasion illustrated.

## I. Conviction and Persuasion in Presentation

**A. The brief and presentation.** Under invention, selection, and arrangement, we have considered the methods of finding materials, of estimating their value, and of arranging them so as best to utilize their strength. The product of our work has been embodied in a brief. It sometimes happens that our preparation ends here; the brief itself may be the presentation of our argument. But as a rule other preparation is required. The brief may be but the foundation-stones and the beams which sustain and shape the building, but which in the end are hidden from view by outward forms that are more sightly and more useful; or it may be but an orderly storehouse of material from which to draw whatever

is needed for specific occasions. To achieve our purposes, we generally need to put the materials in more pleasing and effective rhetorical form. The brief as we have considered it so far is an impersonal thing. It is a full statement of "the case" as a *case*, adapted to no audience in particular. It has no persuasion in it—except what may be there incidentally on account of the persuasive nature of some of the evidence. Even when a brief is to be the final presentation of the case, it is still usually lacking in persuasion, is largely impersonal and simply introduces the argument without bias, presents evidence in rigid form, and draws logical inferences without fervor or emotion of any kind. For the presentation of this kind of case we are now prepared. A neat manuscript which follows the suggestions and rules of the last chapter is all that is necessary.

**B. Conviction and persuasion.** When we have to argue a case in public (either orally or in print) the situation is different. Then there is more to be done than we have yet considered. Up to this point the work is the same for all kinds of presentation. In the preparation of any important argument the first thing to be done is the drawing of a complete brief—a full statement of the intellectual basis of the case. In this we consider the inherent weight of evidence and force of inference as such, as far as possible without regard to any particular audience. Now a new element enters in. We now have to consider persuasion.

In our earlier consideration of the general nature of the art, we have seen that there are two aspects or methods of approach in all argumentation: (1) conviction, or the appeal to the reason, which is the act of inducing another to accept the truth of an idea or proposition; and (2) persuasion, or the appeal to the emotions, which is the act of influencing another by affecting his feelings. We have further seen that both are usually essential to effectiveness. Certain elements of persuasion must be considered in preparing to present any case either oral or written to any general audience. There is

no such thing as an audience of human beings to whom it is safe to present any case without giving thought to the likes and dislikes, prejudices, experiences, and habits of the people to be addressed. How much conviction and how much persuasion to use must be determined by circumstances. In an intercollegiate debate, the element of persuasion is slight. It is usually no more than tact and vigor in the work of conviction. The lawyer before the jury needs a judicious mixture of both. Danton before the French convention made his appeal almost wholly to the turbulent passions of a passionate mob. But though the relative amounts of the two elements may vary, both are almost always necessary for success.

**C. Selecting parts of case for each particular audience: conviction.** If we have a complete brief of the case prepared with no particular audience in mind there is one other step to take before we prepare a persuasive presentation for a given audience. That is: sort out those parts of the brief, those phases of the case, which you wish to present to this particular audience. Not only will you perhaps want to present the same material differently to different audiences but you will want to present different material to different audiences. Do not waste time and tire an audience by proving elaborately a point which to this particular audience needs no proof. Do not give a long detailed introduction (suitable to an uninformed audience) to an audience already familiar with the facts. In other words, do not make a brief and then present it as drawn to all audiences. Take the appropriate parts for each audience. For instance, suppose you wish to have a new policy adopted in your university. After careful investigation and gathering of evidence you prepare a complete brief in support of the proposed policy. If the decision rests with a single officer or small committee this brief may be submitted in full either with or without comment. But suppose you must gain the support of a number of different bodies by presenting the merits of your plan orally to them.

Suppose a group of audiences taken from this list: senior class, athletic council, whole student body, faculty, board of trustees, state legislature. One of these groups may admit points which will have to be substantiated (with varying degrees of thoroughness) before other bodies. Introductory material needed in a student meeting might be superfluous before faculty or legislature—or vice versa. In this way "the case" as briefed must be changed and adapted to fit each separate audience approached. An audience before which a complete and properly drawn brief may profitably be used as the outline of an oral argument is rarely if ever found.

The most important work of conviction is about done when the brief is completed. When the materials have been gathered and arranged, it only remains to put the proof in words that will impress it clearly and forcibly on the understanding of those we would convince. To be able to do this, obviously the first requisite is a knowledge of rhetoric. The effect of well-arranged and well-chosen proofs is often neutralized by confused and halting English. The man who cannot express himself is always a weakling in argumentation.

Then, in addition to the general principles of rhetoric, there are certain adaptations of these rhetorical principles to the peculiar work of argumentation.

A general treatment of rhetorical forms lies beyond the necessary limits of this book. The principles that are peculiar to argumentative composition will be treated in the following chapters on the introduction, the discussion, and the conclusion.

## II. The Nature of Persuasion

**A. Persuasion defined.** Persuasion has been defined as the art of influencing another by affecting his feelings or emotions. In the past text-books on rhetoric and argumentation have for the most part made this statement, and left the student with little further help. While it is impossible

in this book to give a thorough treatment of this subject, it is possible, we believe, to give considerable assistance by presenting a new definition. Winans [1] ventures such a new definition, as follows: "Persuasion is the process of inducing others to give fair, favorable, or undivided attention to propositions." In discussing this definition Professor Winans [2] quotes in substantiation and approval many of the leading psychologists. We quote one such:

"We now need a principle by means of which we can systematize the suggestions for persuasion drawn from common experience. Why do we will to do or not to do? We turn to Professor James: [3]

"'What holds attention determines action. . . . It seems as if we ought to look for the secret of an idea's impulsiveness . . . in the urgency with which it is able to compel attention and dominate in consciousness. Let it once so dominate, let no other ideas succeed in displacing it, and whatever motor effects belong to it by nature will inevitably occur. . . . In short, one does not see any case in which the steadfast occupancy of consciousness does not appear to be the prime condition of impulsive power. It is still more obviously the prime condition of inhibitive power. What checks our impulses is the mere thinking of reasons to the contrary—it is their bare presence in the mind which gives the veto, and makes acts, otherwise seductive, impossible to perform. If we could only forget our scruples, our doubts, our fears, what exultant energy we should for a while display!'" [4]

**B. Persuasion in almost all argumentation.** The ultimate aim of most argumentation is to make others act as we desire, to influence the conduct of others, to make others

[1] *Public Speaking*, p. 256. The quotations from this book found in this chapter are used with the kind permission of Professor Winans and the Century Company. Every teacher of argumentation should read in full Winans' chapters on "Influencing Conduct" and "Persuasion and Belief."

[2] Ibid., pp. 253–257.

[3] *Briefer Course*, pp. 448–452.

[4] Winans, pp. 253–4.

forget their scruples, doubts, fears, etc., in so far as these keep them from giving fair, favorable, and undivided attention to our proposition. We have seen already that persuasion in some degree is practically always necessary in influencing the actions of others. He who goes before *any* audience of human beings and attempts to get favorable action on a proposition ignoring all considerations of persuasion is foredoomed to defeat. The only situation that offers an opportunity for exceptions to this statement is that in which the majority of the people present are *at the start* favorable to the action sought—a situation in which no discussion is required at all. In fact even in such a case if a speech is made and no attention paid to the persuasive elements in the situation, the case may well be lost. Men are often turned away from their original intention by a speaker who talks tactlessly (i. e., not persuasively) *in favor* of "their side." There is much erroneous talk nowadays about educated people, trained intellects, intelligent citizens, etc., being superior to persuasion, and basing their opinions, votes, decisions, on "facts" and logic and pure reason. There is no such thing as an audience that will come to decisions on "propositions of policy" on purely logical grounds. A simple question of fact unassociated with human conduct *may* be decided that way.

If anyone wishes to test this statement let him go before an educated group, an audience of trained intellects, with a case based on sound evidence and reasoning and present his case in a way calculated to be displeasing to his audience. Go before a college or university faculty, for instance, and "rub them the wrong way," stand with thumbs in the arm-holes of your vest, chew gum, use slang, make ill-bred personal references to members present or absent—and see how many votes you will get—even though these things have nothing whatever to do with the real strength of your case. None of these things could possibly be said to have any "probative value." The case is lost because its persuasive side was neglected.

**C. Prejudice against an "emotional appeal."** The case of the "intellectual" who resolutely refuses to be moved by any emotional appeal is interesting. Have you ever heard such a one declare that he will never vote (in faculty meeting for instance) for any measure that is presented with an appeal to emotions? Consider what this means. If he is to be taken at his word, it means that in such a case his decision will always be an emotional one—based on his prejudice against what he thinks is an "appeal to the emotions"—when he recognizes it. He has decided in advance to exclude from consideration the intellectual value of the case and render a purely emotional decision! But of course he is not to be taken seriously, because if the persuasion (emotional appeal) is well handled, he will be pleased. The presentation will fit his prejudices, his tastes will be complied with, agreeable ideas will be held up, and he will vote joyfully (emotionally) and on the way home will pronounce vigorously (emotionally) that that is the way he likes (emotion again) to see a matter presented! Such a man is one of the many people who have a wrong idea of the meaning of persuasion, persuasive case, emotional appeal, etc. It is thought that there is something unworthy and cheap about persuasion and emotion—that a persuasive case is always an appeal to base emotions and passions. Of course this is quite contrary to fact. Says Winans on this point:[1] "Let us get clearly in mind that we are not dealing with an artificial or unusual problem. When you induce a man to join your party, or buy an automobile, or improve his habits, or go fishing with you, or pay his bills, or open his mind to the possibility that the Germans, or the English, are well-meaning men, you are persuading him. Persuasion is as familiar as living, and you will recognize at once its means, such as arguments, motives, suggestions, personal influence, tact." "Persuasion is sometimes spoken of as altogether a matter of 'appealing to emotion.' The phrase proves misleading.

[1] *Public Speaking*, pp. 251–252.

It is taken by some to refer to pathos only, or to an arousal of the more violent feelings; or at best as an appeal to some large emotion, such as patriotism. Again, the word *appeal* is misunderstood as meaning direct, fervid exhortation only. It is true that persuasion is quite largely concerned with emotion. In persuasion we wish to allay such emotions as will keep hostility to the proposed action in mind, such as dislike for the means or the end, or desire for other ends; and we wish to awaken such emotions as will win for the proposed action favorable attention." [1]

**D. Emotion in argumentation.** The place of emotion in argumentation has been best stated by Professor Winans in the following paragraphs.[2]

1. "Let us notice, *first*, that *in dealing with those practical issues that directly affect human conduct, the very basis of argument is emotion;* or as we noted in the preceding chapter, the major premise of such an argument is the expression of an emotion. If we argue that the square of the hypotenuse of a right triangle is equal to the sum of the squares of the other two sides, we have pure reasoning, free from emotion; but when we take up the proposition that Congress should pass the immigration bill, involving an illiteracy test, over the President's veto, we are constantly dealing with emotions. We must assume first the emotion of patriotism, or that all desire the good of the country. As we proceed we find ourselves meeting with emotions involved in the interests of labor and of corporations, with self-interest and the love of justice, with race prejudices and loyalties, with the sentiment that America should remain the home of the oppressed, with pity for those who have had no opportunity for education, and with a reluctance on the part of many to pass a measure over President Wilson's veto. If we looked beneath the surface of newspaper discussion, we might find certain religious feelings playing an active part in the settlement of this issue. The fact that some of these feelings ought not to influence

[1] *Public Speaking*, p. 257.

[2] Ibid., pp. 304–310.

our judgment of the question, and the fact that none of them should be permitted to put us in such a state that we cannot reason justly, do not change the facts that an argument on the issue impinges upon emotion at every point, that some of these emotions are necessary to a proper solution, and that any one or several of them, good and bad, may be dominating the minds of your hearers as you address them. The question selected is far from an extreme instance, as you will see if you think for a moment of such questions as intercollegiate athletics, modern dancing, woman's suffrage, and blame for the European war.

2. "In the *second* place, we notice with regard to the influence of emotion on argument, *the strong tendency of men to believe what they wish to believe.*[1] 'Will and belief are undoubtedly common products of the same deeper lying forces. Whatever appeals to us strongly enough to tempt us to desire to believe, by the very same appeal compels belief.' Experience declares, 'A man convinced against his will is of the same opinion still.' Almost as famous is the saying attributed to a Scotchman, 'I am quite open to conviction, Sandy, but I should like to see the man who can convince me.' This tendency to believe what we wish to believe is encouraged by the fact that, with reference to questions at all debatable, there are reasons, usually good reasons, in support of either alternative. One can arrive at a decision only by weighing the opposing arguments. Now, if he wishes to arrive at a certain conclusion, the arguments for it seem weighty and those in opposition very light. He is likely to refuse credence to witnesses and authorities against the desired conclusion. He may even refuse to listen to opposing arguments; or he may listen in an attempt to be fair, but with a subconscious determination to discredit what he hears, saying all the while, That is not true; That is not important, or That is insufficient. In other words, he refuses fair attention. . . .

[1] Pillsbury, *Psychology of Reasoning*, p. 54.

"But frequently I am told by my students, 'Men ought not to be influenced in their thinking by their emotions and prejudices.' No one is stricter with other people's thinking than your sophomore. He himself is open-minded in regard to those subjects in which he has a purely intellectual interest; but hear him argue on 'activities,' women's suffrage, or religion! At any rate, the question is not how men should think, but how they do think. These are the words of a practical idealist, Woodrow Wilson:[1]

"As I look back upon the past of the South, it seems to me to contain that best of dynamic forces, the force of emotion. We talk a great deal about being governed by mind, by intellect, by intelligence, in this boastful day of ours; but as a matter of fact, I don't believe that one man out of a thousand is governed by his mind.

"'Men, no matter what their training, are governed by their passions, and the most we can hope to accomplish is to keep the handsome passions in the majority.'

"After all, are we not much too scornful of emotions? It is true that men are often governed by unjustified emotions; but it is also true that they are often led astray by false logic. There are more men who feel truly than there are who reason justly. Even Huxley, who held up the ideal of a mind which is a 'cold logic engine,' wished men to have strong emotions, though well controlled. So eminent a scientist as Baldwin has written: [2]

"'Neither will logic satisfy our moral or æsthetic demands, for the logically true is often immoral and hideous. It is well, therefore, to write large the truth that logical consistency is not the whole of reality, and that the revolt of the heart against fact is often as legitimate a measure of the true in this shifting universe as is the cold denial given by rational conviction to the vagaries of casual feeling.'"

[1] From a speech to the New York Southern Society in 1910, found in Wood's *After-Dinner Speeches*, p. 46.

[2] *Elements of Psychology*, p. 262.

3. "In the *third* place, we may notice that *emotions not belonging to the argument itself, affect decisions.* These may arise from the occasion. The audience may be enthusiastic or bored, good-natured or angry. Again, emotions may arise from the relation of speaker and audience. They may feel great respect for him, or be pleased by his manner, his friendliness and good humor; or they may dislike him and feel resentment or suspicion. We must consider what manner of men we address, what feelings move them, and how opposition may be abated and a mood of friendliness and candor established."

Perhaps the terms *negative persuasion* and *positive persuasion* will be helpful, the former indicating consideration of the things one must refrain from doing in order not to detract from the value of his intellectual or logical case, and the latter indicating consideration of the things one must do affirmatively in order to overcome prejudices, to get a fair hearing for his case, or to enforce his logic and add to the influence of his intellectual case. From this point of view negative persuasion is *always* necessary, positive persuasion very often necessary and, if well done, always helpful.[1]

**E. Kinds of emotional appeal.** All those who wish to practice argumentation successfully before any class of audience must practice persuasion of some kind to a greater or less extent. The question then naturally arises, If we must practice persuasion and "appeal to emotion," what are our opportunities?

What emotion or emotions shall we appeal to? What emotion shall we arouse "in regard to our action" in order "to win attention to it"? Many writers have offered more or less complete classifications of emotions from which the student is presumably supposed to select the emotion which fits his case. A few such lists are offered here as suggestive and perhaps even serviceable in a practical way in some situations. Aristotle[2] mentions: anger and mildness; friendship

[1] See ante, B., p. 254 and C., p. 256.

[2] The *Rhetoric of Artistotle*, Jebb translation, p. xxv.

and enmity; fear and boldness; shame and shamelessness; gratitude (or favor) and ingratitude; pity and indignation; envy and emulation. Whately [1] discusses the different kinds of appeals as follows:

"For in order that the Will may be influenced, two things are requisite; *viz.:* 1, that the proposed *Object* should appear desirable; and 2, that the *Means* suggested should be proved to be conducive to the attainment of that object; and this last, evidently must depend on a process of Reasoning. . . .

"Persuasion, therefore, depends on, first, *Argument* (to prove the expediency of the Means proposed), and secondly, what is usually called *Exhortation*, i. e., the excitement of men to adopt those Means, by representing the end as sufficiently desirable. It will happen, indeed, not infrequently, that the one or the other of these objects will have been already, either wholly or in part, accomplished; so that the other shall be the only one that it is requisite to insist on; *viz.:* sometimes the hearers will be sufficiently intent on the pursuit of the End, and will be in doubt only as to the means of attaining it; and sometimes, again, they will have no doubt on that point, but will be indifferent, or not sufficiently ardent, with respect to the proposed End, and will need to be stimulated by Exhortations. Not *sufficiently* ardent, I have said, because it will not so often happen that the object in question will be one to which they are *totally* indifferent, as that they will practically at least, not reckon it, or not feel it, to be worth the requisite pains. . . .

"Aristotle, and many other writers, have spoken of appeals to the passions as an unfair mode of influencing the hearers. . . . But Aristotle by no means overlooked the necessity with a view to Persuasion, properly so termed, of calling into action some motive that may influence the Will; it is plain that whenever he speaks with reprobation of an appeal to the Passions, his meaning is, the excitement of such feelings as *ought not to influence* the decision of the question

[1] Pages 128–131.

in hand. A desire to do justice, may be called, in Dr. Campbell's wide acceptation of the term, a 'Passion' or 'Affection'; this is what *ought* to influence a Judge; and no one would ever censure a Pleader for striving to excite and heighten this desire; but if the decision be influenced by an appeal to Anger, Pity, etc., the feelings thus excited being such as ought not to have operated, the Judge must be allowed to have been unduly biassed. And that this is Aristotle's meaning is evident from his characterizing the introduction of such topics as 'foreign to the matter in hand.' It is evident, also, that as the motives which ought to operate will be different in different cases, the same may be objectionable and not fairly admissible, in one case, which in another would be perfectly allowable.

"An instance occurs in Thucydides, in which this is very judiciously and neatly pointed out; in the debate respecting the Mityleneans, who had been subdued after a revolt, Cleon is introduced contending for the *justice* of inflicting on them capital punishment; to which Diodorus is made to reply, that the Athenians are not sitting in *judgment* on the offenders, but in *deliberation* as to their own *interest;* and ought therefore to consider, not the *right* they may have to put the revolters to death, but the *expediency* or inexpediency of such a procedure.

"In judicial cases, on the contrary, any appeal to the personal interests of the Judge, or even to public expediency, would be irrelevant. In *framing* laws indeed, and (which comes to the same thing) giving those decisions which are to operate as Precedents, the public good is the object to be pursued; but in the mere *administering* of the established laws, it is inadmissible.

"There are many feelings, again, which it is evident should in *no* case be allowed to operate; as Envy, thirst for Revenge, etc., the excitement of which by the orator is to be reprobated as an unfair artifice; but it is not the less necessary to be well acquainted with their nature, in order to allay them when

previously existing in the hearers, or to counteract the efforts of an adversary in producing or directing them. It is evident, indeed, that all the weaknesses, as well as the powers, of the human mind, and all the arts by which the Sophist takes advantage of these weaknesses, must be familiarly known by a perfect Orator; who, though he may be of such a character as to disdain employing such arts, must not want the ability to do so, or he would not be prepared to counteract them. An acquaintance with the nature of poisons is necessary to him who would administer antidotes."

**F. Classification of the emotions.** Professor W. C. Robinson [1] has given a classification of the emotions that it is sometimes helpful to have in mind. "That fundamental principle out of which all noble impulses arise is the tendency of human nature toward perfection. . . . Perfection is predicable of human nature as to its action, as to its character, and as to its attainment. A man is perfect as to action when he fulfils his duty; as to character, when his predominant ideas and impulses are pure and virtuous; as to attainment, when he possesses the highest happiness which human nature is able to enjoy. And thus in actual life the fundamental tendency toward perfection manifests itself in three subordinate tendencies; the tendency toward *duty*, the tendency toward *virtue*, and the tendency toward *happiness*. . . .[2]

"These natural dispositions render the heart susceptible to certain impulses, each of which corresponds to some one of the many forms in which the ideas of duty, virtue, and happiness are presented to the mind. The idea of duty yet to be fulfilled awakens zeal; of duty heretofore performed, complacency; of duty which another had omitted, anger; of duty as discharged by another, approbation. The idea of virtue as an attribute of character engenders admiration; as exemplified in individuals, good will, esteem, friendship, or even love for them and emulation of their excellence; as contrasted with vice, abhorrence of the vice itself and aver-

[1] *Forensic Oratory*, pp. 14, 15.

[2] Italics ours.

sion or contempt toward those in whose character depravity is manifested. The idea of happiness as possible, begets courage, desire, and hope; as unattainable, despair; as already possessed, joy; as derived from others, gratitude; as endangered, fear; as denied to others, pity; as prevented or destroyed by others, indignation. These are the universal impulses to which all men are subject. These are the weapons of the orator to which no human heart can ever be invulnerable."

Winans[1] mentions particularly fairness, the appeal for fair play; desire for approval and admiration; rivalry, the desire to emulate, to equal, or to surpass others; and fear, dread of unpleasant consequences, public disapproval, dangers of the wrong course.

### III. Practical Suggestions for Persuasion

The purpose of this chapter so far has been to present, as well as space would allow, what may be called the theory of persuasion—to get the student to understand broadly the nature and function of persuasion, and to eradicate, if possible, erroneous beliefs in regard to this subject. The remainder of the chapter purposes to present some brief practical suggestions. These will be arranged under three heads: those primarily applicable to *the speaker* himself, those that have to do with *the audience*, and those that apply to *the subject*. While of course all of the suggestions are for the use of the speaker, it is convenient to group them according as they have to do with him personally, his relation to the audience (which usually includes his relation to the *occasion*), and his relation to the subject. This division is not strictly new. Baker and Huntington[2] use one much like it. "Broadly speaking, the means by which a speaker aims to produce action is by winning sympathy for himself or his subject—usually both. Need to

[1] Pages 261–263.

[2] (Revised Edition), p. 294.

establish and maintain such a sympathetic relationship between speaker and audience may come from any one or all of *three sources: the nature of the subject: the relation of the audience to it;* and the *relation of the speaker to subject or audience.*" Foster [1] gives the sources of persuasion as the man, the subject, and the occasion, and refers to Daniel Webster's famous discussion of eloquence.

"True eloquence, indeed, does not consist in speech. It cannot be brought from far. Labor and learning may toil for it; but they will toil in vain. Words and phrases may be marshalled in every way; but they cannot compass it. *It must exist in the man, in the subject, and in the occasion.* Affected passion, intense expression, the pomp of declamation, all may aspire after it—they cannot reach it. It comes, if it come at all, like the outbreaking of a fountain from the earth, or the bursting forth of volcanic fires, with spontaneous, original, native force." [2]

While it is true that there can be no true eloquence without persuasion, there can, of course, be persuasion without real eloquence, and all speakers who wish to achieve results must pay attention to problems in persuasion even though they disclaim any desire for eloquence.

**A. The speaker. 1. Know human nature.** The first requisite for a speaker who would persuade men is a knowledge of human nature. One of the prime qualities of effectiveness is adaptation to the audience. To get such adaptation a speaker or writer must know the peculiarities of the men he addresses. However, such knowledge alone will not enable him to persuade. If he does not *understand human nature in general,* he is powerless to reach the emotions which he knows are before him. He must know how men in general think and act; when a man is best persuaded by silence and when he needs to be reassured; when to wait and when to

[1] Page 265ff.

[2] Webster's speech on John Adams, delivered at Boston, August 2, 1826. Quoted, Clark and Blanchard, p. 10.

strike. Such knowledge is not gained from books; it comes only from contact with men and close study of their habits of mind. The master of persuasion is never a recluse.

**2. Personality.** Closely akin to the persuasive powers arising from the knowledge of human nature, are the influences that come from the personality of the speaker or writer. The influence of personality is felt most strongly in oratory; but personal character shows itself in print as well, and wherever it goes it persuades, favorably or unfavorably. Every quality of mind or heart that may make enemies or make friends is a proper part of persuasive power. Says Foster [1] on this topic: "The power of a speaker to draw a whole audience into the circle of his influence, and to hold them as if entranced until his last word, is more easily felt than defined. This power may be called personal magnetism. It is the sum total of all the speaker's attributes,—his physical, mental, and moral characteristics, raised to their highest power, and working together for a definite object. In this respect, more than in any other, an orator is born, not made. Yet all that a man does to keep his body well formed and strong and healthy, all that he does to make his thought keen and deep and sound, and all that he does to make his conduct right as God gives him to see the right, contribute to personal magnetism. A great and good speaker must first be a great and good man."

**3. Sincerity or earnestness.** Among the definite qualities that may be mentioned as particularly desirable in argumentative persuasion, the first is sincerity or earnestness. No man will be persuaded by any one who he thinks is trying to deceive him or play with his convictions for personal ends. A suspicious audience is the hardest kind to handle, and undoubtedly an audience does not require much to make it suspicious. Sometimes the hearers have occasion to suspect that a speaker is positively dishonest and designing; but more often they believe simply that the speaker is arguing

[1] Foster, pp. 273, 274.

for argument's sake or "to be worthy of his hire," and that he really has no interest or confidence in his cause. Such suspicion is seriously damaging to persuasive power. Lyman Abbott gives some excellent advice in an open letter [1] as follows: "When he rises to speak he must forget himself, pray to be delivered from the ambition to be eloquent by an ambition to win a result; be careless of admiration and covetous of practical fruits in his auditors' lives. Without this moral preparation he will be a mere declaimer: with it he may be an effective speaker. And whether he is what men call an orator or not is a matter of no consequence." Enthusiasm in an audience can be roused only by enthusiasm in the speaker, and earnest conviction is begotten only by a belief in the earnestness of him who persuades. "One has only to examine the great speeches from Demosthenes to Webster to see how earnestly the orators have in all parts of their work impressed their sincerity on their audiences: one has but to study the wrecked careers among orators to realize that sincerity is the chief essential in persuasion. Without it all else, in the long run, goes for naught." [2] Consequently no great orator, no effective writer, neglects to be sure at every step that those in his audience have confidence in the honesty and earnestness of his endeavors. Hence it is, that the following exordium is an example of one of the most common methods of introduction. It is taken from the speech of Sir James McIntosh in behalf of Jean Peltier before the Court of the King's Bench, February, 1803, and shows how necessary a man, of even so great eloquence, thought it to be that his audience believe in his sincerity.

"I must begin with observing that, though I know myself too well to ascribe to anything but to the kindness and good nature of my learned friend, the attorney-general, the unmerited praises which he has been pleased to bestow on me, yet, I will venture to

[1] Quoted in Brander Matthews' *Notes on Speech Making*, p. 91.

[2] Baker and Huntington, p. 302.

say, he has done me no more than justice in supposing that in this place and on this occasion, where I exercise the functions of an inferior minister of justice, an inferior minister, indeed, but a minister of justice still, I am incapable of lending myself to the passions of any client, and that I will not make the proceedings of this court subservient to any political purpose." [1]

**4. Modesty.** Another element of persuasion is a quality in the speaker or writer that may be termed modesty. Modesty, in this connection, does not mean an attitude of subservience or self-suspicion. Indeed, a speaker should feel and (with modesty) exhibit the feeling that he is competent, prepared, knows what he is talking about. Self-respect, self-confidence, authority, and leadership are perfectly consistent with true modesty. Proper modesty does not require that a speaker apologize for his poor abilities, his "inadequacy to the task before him," etc. A good rule to follow in public speaking of any kind is "never apologize, never offer excuses." If it is true that you are "totally unprepared," know nothing about the subject, do not attempt to make a speech—if it is not true, do not lie about it. "Excuses and apologies are sometimes prompted by conceit, often they are dishonest, usually of no interest to the audience, and altogether bad. There is but one speech in a hundred which may well begin with excuses; and there are few that begin in any other way." [2]

There is such a thing—even in public discussion—as false modesty, and it is a detriment to him who plays with it. Self-confidence and manly courage are perfectly consistent with every attribute of real modesty. *True modesty requires simply, that the man should be made secondary to the subject.* If it be an arguer's purpose to display his own abilities and dazzle his audience, conceit is no hindrance; but if it be his aim to win his case, it is different. If he makes it evident that he thinks he is himself more important than what he has to say, the men whom he is addressing will read-

[1] Howell's *State Trials*, Vol. 28, p. 566. [2] Foster, p. 268.

ily share his disrespect for the cause he represents, and, however much they may envy his brilliancy, they will be likely to give their allegiance elsewhere. Furthermore, an audience has a natural tendency to doubt the modesty of a speaker. For the moment he is on a plane a little above his auditors; he stands as their leader in thought and action. Now men in an audience are willing to be led, but they object to being driven. They will accept leadership, but they will rebel against dictation, and they are quick to notice any assumption of superiority or command. The line between leadership and dictation, between equality and assumed superiority, is the dead-line of friendship with the audience, and a speaker who crosses the line has lost much of the power of persuasion. This is the essence of the art of persuasion; *the relation of the speaker to his audience and of the writer to his reader must always be an attitude of leadership.*

**5. Self-control and reserve force.** Closely akin to modesty is self-control and reserve. The speaker who loses self-control before an audience is sure to distract *attention* from his case to himself and so lose the very heart of persuasion—and he is likely to offend in a positive way as well. "A lack of self-control is the besetting sin of very vigorous and enthusiastic speakers. These men often work themselves up to a state of such excitement that they (a) exaggerate, (b) say things they had not planned or wanted to say, (c) forget to say what they wanted to say, and (d) display feelings which they should have restrained. Any newspaper reporter will tell you how general is the fault of poor self-control. Public men, because of it, make speeches for which they are sorry and sometimes, we regret to state, they brand a true report of such an address as a lie. Newspapers are blamed for 'misstatements' which in reality are the true records of utterances made without self-control." [1] This must be not taken to mean that vigor and enthusiasm are in essence undesirable. Enough of these to give the impression that

[1] Robinson, F. B., p. 144.

the speaker really and vitally means what he says, is decidedly worth while. But enthusiasm must not be allowed to "run away" with the speaker; it must be controlled. We instinctively like the man who can control himself and seems always to have much power held in reserve. When a speaker gives the impression that he has expended his last thought and ultimate emotion he has lost his power to lead—to persuade. The audience feel they have all he has and are as competent to lead as he. A sense that there is much more that might be said; deeper emotions that are controlled in order that calm thought may prevail, has a very persuasive effect. "Reserved force, which tells for much in all kinds of composition, cannot be overestimated as an instrument of persuasion. Webster's words, 'It is, sir, as I have said, a small college, and yet there are those who love it,' together with his manifest effort to repress his emotion, did more for Dartmouth College than could have been effected by hours of direct appeal." [1] This truth which seems to be ignored by so many poor and mediocre speakers, who always try deliberately to work themselves and their hearers into a passion, is emphasized by all recognized writers on persuasion. Says Foster,[2] "Behind his most impassioned speech he must have reserve force. He must have such command of self that his hearers will believe his convictions to be the result of calm, vigorous thinking, and his strongest emotions to be under the control of his intellect. A speaker who is overcome by his feelings may stimulate his audience to a brief response, but the more enduring persuasion results from a masterful expression of firm conviction, which is felt to be deliberate and just in spite of a speaker's strong feelings." There is no worse fault in public speaking than that of talking *always* in a ringing, emotion laden voice. The speaker who falls into this habit has little chance of being listened to and no chance of influencing intelligent people. When you underline every word on a page you emphasize *none* of them. A comment

[1] Hill, p. 395.

[2] Foster, p. 271.

which explains very well this danger of lack of reserve force is that of Baker and Huntington. "Because exhibition of emotion is often an easy way of moving other people to act as we wish, it has been abused as a means of persuasion. Expression of strong emotion is really dangerous unless one's hearers are in full sympathy with it; they will feel in it, especially if highly refined, something a little repellent because too uncontrolled. Moreover, frequent dependence on this method of persuasion weakens its effect. An audience, seeing that the speaker seems to feel readily any emotion, begins to doubt the genuineness of this feeling, wondering whether it is at best more than perhaps unconscious acting of a high order. If it decides that the display of emotion is really but acting, it may admire the man as an actor; it will not long do his bidding. . . .

"For a speaker to say to himself during the preparation of his address: 'This idea gives me a chance for a stirring burst of emotion, therefore here I will let my audience see how moved I am' has the theatric about it, and may lead to failure. It is safer in planning persuasion to trust to relating one's ideas to motives operant in the audience and to depicting conditions which should arouse emotion. If it kindles in the very words of a speaker, if in spite of his efforts to the contrary it overmasters him, he will be very persuasive, but if it does not arise in these ways, a note of insincerity will probably spoil its effect. A student should remark here the difference between the art of the orator and the art of the actor. The success of the actor is complete if his audience feels: 'This is the perfect simulation of anger, grief, mirth, misery.' For the orator that judgment is the doom of his persuasive work. His audience must be swept out of its critical self-control into participation in the anger, grief, mirth, or misery, so complete as to take action in consequence of it. The orator has a special act in mind as the end of his persuasion; the actor has not." [1]

[1] Baker and Huntington, pp. 333–335.

**6. Fairness** is happily a quality that most audiences delight to find in a speaker. Do not try to take unsportsmanlike advantages of your opponent. Be fair and honest with him as well as with your audience. Quote him correctly, answer what he *really said*. Be honest and fair in all representations of his case or his statements in detail. "Fairness is itself persuasive. Do not attempt to conceal important facts which make against your position. Give your opponent all possible credit; concede all that you can honestly concede. Grant him everything but the one point which you *must* establish. Present his case with manifest fairness. Present it better than he can present it; and, if you can honestly do so, make it even more forcible against your own contentions. If you cannot state your opponent's case, you do not know it; if you do not know it, you cannot hope to refute it; and if you dare not state it, you acknowledge that you deserve defeat at the start. Give your opponent credit for good faith, and thus escape personalities. Save your time and your energy for refuting his arguments rather than himself." [1]

**B. The subject. 1. Must fit speaker and audience.** Not much detailed discussion of persuasion is required under this head. The subjects for most serious arguments are prescribed, and naturally fit the occasion and the speaker. Thus the greatest consideration is taken care of. To make persuasion easy the subject should *fit* the audience and the speaker. Because in actual life we usually argue on a given subject with those who are interested and responsible, and because we usually argue about something that interests us or concerning which we are responsible, this special point is taken care of. Of course you have an almost impossible situation from the standpoint of persuasion when you are talking about a subject that does not *fit* either yourself or your audience. Do not attempt to argue any subject that will *seem to your audience* ill suited to your age, experience, station in life, etc. And do not argue with any audience on a subject con-

[1] Foster, pp. 269–270.

cerning which you cannot find (or readily create) in them a vital feeling of interest or responsibility.

**2. Handling subject-matter.** Assuming now that you have a subject that is persuasively appropriate to yourself and your audience, what practical suggestions can be made for your guidance in handling the subject-matter? Four qualities to be aimed at in order to get maximum persuasion out of the handling of the subject-matter are: brevity, simplicity, vividness, and variety.

**a. Brevity.** Appropriate brevity is attained, not by leaving out material that should be used, but by omitting all unnecessary remarks. It is a relative rather than an absolute quality. The proper length for any given speech will depend upon many circumstances. Brevity is violated when one talks simply to fill up time, or because he does not know how to quit, or because he cannot drop one point when he has said enough on it. The use of unnecessary words or sentences constitutes a breach of the law of brevity. The shortest explanation that will explain, the shortest allusion that will awaken the desired memories or associations, is the most persuasive. Wasting time with unnecessary talking irritates an audience and greatly hinders persuasion. Hill [1] gives a pointed warning when he says, "It is in exordiums and perorations that a young writer often fails: he does not know how to get at his subject or how to get away from it. He should beware of putting in a word of introduction that is not necessary to prepare the way for his argument, and of adding a word at the end that is not necessary to enforce his conclusion. 'Is he never going to begin?' 'Will he never have done?' are questions equally fatal." We have shown already how closely related are persuasion and attention. Indeed Winans says,[2] "Persuasion is the process of inducing others to give fair, favorable, or undivided attention to propositions." Herbert Spencer [3] after commenting on numerous

[1] Hill, A. S., p. 388.

[2] Page 256.

[3] *Philosophy of Style*, pp. 6–8.

maxims of rhetoric goes on as follows (italics not in the original): "On seeking for some clue to the law underlying these current maxims, we may see shadowed forth in many of them, *the importance of economizing the reader's or hearer's attention.* To so present ideas that they may *be apprehended with the least possible mental effort*, is the desideratum towards which most of the rules above quoted point. When we condemn writing that is wordy, or confused, or intricate—when we praise this style as easy, and blame that as fatiguing, we consciously or unconsciously assume this desideratum as our standard of judgment. Regarding language as an apparatus of symbols for the conveyance of thought, we may say that, as in a mechanical apparatus, the more simple and the better arranged in its parts, the greater will be the effect produced. In either case, whatever force is absorbed by the machine is deducted from the result. A reader or listener has at each moment but a limited amount of mental power available. To recognize and interpret the symbols presented to him, requires part of this power; to arrange and combine the images suggested, requires a further part; and only that part which remains can be used for realizing the thought conveyed. Hence, the more time and attention it takes to receive and understand each sentence, the less time and attention can be given to the contained idea, and the less vividly will that idea be conceived.

"How truly language must be regarded as a hindrance to thought, though the necessary instrument of it, we shall clearly perceive on remembering the comparative force with which simple ideas are communicated by signs. To say 'Leave the room' is less expressive than to point to the door. Placing a finger on the lips is more forcible than whispering 'Do not speak,' A beck of the hand is better than 'Come here.' No phrase can convey the idea of surprise so vividly as opening the eyes and raising the eyebrows. A shrug of the shoulders would lose much by translation into words. Again, it may be remarked that when oral language is employed,

*the strongest effects are produced by interjections, which condense entire sentences into syllables.* And in other cases, where custom allows us to express thoughts by single words, as in *Beware, Heigho, Fudge,* much force would be lost by expanding them into specific propositions. Hence, carrying out the metaphor that language is the vehicle of thought, there seems reason to think that in all cases the friction and inertia of the vehicle deduct from its efficiency; and that in composition, the chief, if not the sole thing to be done, is to reduce this friction and inertia to the smallest possible amount. Let us then inquire whether *economy of the recipient's attention* is not the secret of effect, alike in the right choice and collocation of words, in the best arrangement of clauses in a sentence, in the proper order of its principal and subordinate propositions, in the judicious use of simile, metaphor and other figures of speech and even in the rhythmical sequence of syllables."

**b. Simplicity.** The first five definitions of simplicity given in Webster's dictionary show how in practically every shade of meaning of the word, simplicity as a rhetorical quality must aid persuasion by economizing attention. The definitions are: "1. The quality or state of being simple, unmixed, or uncompounded. 2. The quality or state of being not complex or of consisting of few parts. 3. Artlessness of mind; freedom from cunning or duplicity. 4. Freedom from artificial ornament, pretentious style or luxury; plainness. 5. Freedom from subtlety or abstruseness; clearness." Simplicity in rhetoric means all these things: unmixed, not complex, free from cunning, duplicity, artificial ornament, pretentiousness, subtlety, and abstruseness. The absence of such simplicity both in composition and delivery lies at the bottom of the greatest fault known in public speaking, that is artificial, ornate, bombastic style which results in a speech which is an *exhibition* and not a *communication.* This indirectness which is a sort of parading of voice and vocabulary—ringing, long drawn, emotionally false cadences in

voice, and high flowing, ponderous periods in language, is absolutely inconsistent with *thought*. A mentality that is alive and active *at the moment of utterance* cannot use this sort of medium. So this fault is most common in declamation or in the speaking of those who have learned to speak largely by declamatory practice. The common custom of choosing only the perorations of great speeches (the parts in which emotion was at its height with the audience prepared for it—a tense emotional setting ready) for declamatory practice, in a flat, uninteresting, absolutely non-emotional atmosphere, by a boy who often cannot grasp the mighty thoughts of the orator, is a fruitful source of this kind of hollow, declamatory, meaningless speaking. The result is a *show* rather than a conversation. Such speakers display their powerful voices and teeming vocabularies *before* an audience. They do not present *live* thoughts *to* an audience. They do not reason *with* an audience. There is no contact. It is all detached, impersonal, indirect; literally "sound and fury signifying nothing." After such an experience the listeners may say (if their taste is low) "What a fine speech!" They will not say "Let us march against Phillip!"

*Simplicity is akin to sincerity.* The speaker or writer who is really sincere usually treats his subject with simplicity. In fact, having any one good quality aids us in getting the others. False ornament, the ringing alliterative adjectives, and trite figures of speech, which always hinder communication of thought, are usually the concrete offenses against simplicity. Such hollow rhetoric should be eliminated whatever the cost. There can be no speech or manuscript that will not be improved by such cutting—regardless of the nature of what is left. Hardress O'Grady, of the University of London, in a little volume [1] whose keynote is sincerity gives much good advice and suggestion on this topic. To quote: "Although the form and style be excellent, there can be no good writing if the subject-matter is unreal to the

[1] *Matter, Form, and Style.*

writer. No man can write honestly about subjects of which he has no experience. His comments will strike the reader as unreal, affected, or priggish, or they will be mere imitations of some author read shortly before the work was done. . . . Form and style are essential for the proper presentation of the subject, to interest the reader, to please him, and to keep his attention to the end. But form and style are of no avail if there is no *reality* in the subject-matter. Therefore the subject must be alive to the writer, it must be important to him, for otherwise it will not live and become important to the reader." [1] "Is it *alive?* is it interesting? is it plain and honest truth? has it a *root* in you? Do not be afraid to give yourself away. People will respect you all the more for writing plainly and very sincerely. If the subject interests you, with careful handling and sincere writing it will interest others. An engineer, a motorist, an architect, a schoolmaster, a scientist, will interest his audience very much in a highly technical description if he is enthusiastic about it, and uses plain, clear, 'full-of-blood' language. Great politicians have often held—or shall I say gripped?—audiences that were really hostile to their opinions because their speeches came from their very hearts. They had a *root* in themselves." [2] "Since I feel that style is sincerity, all this book has been about style. . . . Go through your writing with a blue pencil, and see what you can cross out as unnecessary. . . . Beware of set phrases which have been used so often that they have become stale or commonplace, and have lost their original meaning. Beware of catchwords. Beware of the sentence which sounds pretty or clever. Is it true? Finally, ask yourself of every part and of the whole, Is this honest thinking? honest description? am I sincere? is it true? Is it true?" [3] "Precision," says Phelps in discussing this topic,[4] "is the most effective test of affected style

[1] *Matter, Form, and Style,* p. 11.
[2] Ibid., p. 27.
[3] Ibid., p. 121.
[4] *English Style in Public Discourse,* pages 115, 116.

as distinct from genuine style. In affected style, expression is estranged from thought. Apply the test of precision, and the mask drops. . . . Apply to any form of affectation in style the query, 'What precisely does the writer mean?' and the glamour of affected excellence disappears."

**c. Vividness.** "Deductions," says Cardinal Newman,[1] "have no power of persuasion. The heart is commonly reached, not through reason, but through the imagination, by means of direct impressions, by the testimony of facts and events, by history, by description." If we would *persuade* by means of direct impressions, facts, events, descriptions, we must present such material vividly. Vividness is an essential quality of all good persuasive work, either oral or written. Vivid means strong, bright, animated, *lifelike.* To get vividness we must have material capable of vivid presentation; so we must keep this quality in mind when choosing facts, evidence, anecdotes, etc. "The chief source of brevity and vividness dramatically is selection. That is, a dramatist does not give all the details of the lives of his characters or of their conversations, but selects those parts which are most significant for his purpose. Similarly a speaker, in making any direct appeal to the emotions, should give only the essential or striking features of that which moves him or is intended to move his hearers." [2] Of course only that can be vivid which is understood. A reference to anything with which your audience is unfamiliar, instead of enforcing your case by calling up a vivid image only hinders your case by distracting the hearer's *attention.* While the man in the audience is wondering whom you meant, or trying to recall the historical fact to which you refer, he is paying *no* attention to what you are saying. The reference must be instantly intelligible or nothing is gained and much may be lost by distracting attention.

**(I) Reference to experience.** Phillips, in his excellent

[1] *Discussions and Arguments,* quoted by A. S. Hill, p. 394.

[2] Baker and Huntington, p. 338.

chapter on *The Principle of Reference to Experience*[1] sums this all up as follows: "If, then, the coming into the life of the listener is a means to successful speaking, it logically follows that the more closely the reference touches the life, the greater the effectiveness, or, to state it formally as a working principle:

"*The more the speaker brings his idea within the vivid experience of the listener, the more likely will he attain his end,* and, obversely:

"*The less the speaker brings his idea within the vivid experience of the listener, the less likely will he attain his end.*"

**(A) Vivid experiences.** "This being so, the problem of the speaker is the *determination of the relative value of experiences—their comparative vividness,* and the principles that govern this may now be stated:

"(1) An experience will be vivid to the listener in the degree that it is *originally intense,* that is, in the degree the initial experience engraved itself upon his memory. . . .

"(2) An experience will be vivid in the degree that it is *experienced frequently.* You could describe the house that you had lived in daily, for years, better than the house of an acquaintance that you had visited but once. . . .

"(3) An experience will be vivid in the degree that it is *frequently recollected.* A war veteran served through the campaign but once. Yet his battles, sieges, fortunes, have all their original intensity, through the frequency of recollection. Week after week, year after year, he retells them, and thereby keeps his mental pictures fresh. . . .

"(4) An experience will be vivid in the degree that it is *recent.* Other things equal, an experience has power according to its nearness in time. We can recall this morning's breakfast with greater distinctness than that of a year ago. The raging headache of yesterday arouses deeper feeling than that of last month.

"Including the foregoing in one statement, we have: *An ex-*

[1] Effective Speaking, p. 33ff.

*perience will be vivid in the degree that it is originally intense, recent, frequent in recurrence, and frequently recollected.*"

(II) **The concrete and specific** is always more vivid than the abstract and general. Note the increasing vividness in the following series: vegetation, vegetable, radish, white radish, long white radish, big long white radish, a white radish four inches long, a withered white radish four inches long; flower, rose, yellow rose. Consumption is more specific than disease; disease than indisposition, drunkenness than dissipation. Says Lamont,[1] . . . "the right word is that which presents the idea most precisely. The sentence, 'The horse is coming down the street,' is not so precise, not so vivid as 'The horse is galloping down the street.' The reason is that 'coming' is a *general* word, covering all kinds of locomotion; the horse may be walking, trotting, or pacing—all included under 'coming,' which conveys the notion rather hazily. 'Galloping,' however, describes but one gait and thus forms in the mind a more sharply defined picture. 'Galloping' we call a *specific* word because it specifies the idea exactly. From this example it is evident that one secret of a vivid and interesting, as opposed to a colorless and dull, style, is to employ, whenever possible, a specific rather than a general word. The difference in effect is shown in the following passages:

*General.* All at once I saw two figures; one a man who was coming east, and the other a girl who was coming down a cross street. Well, sir, the two came together naturally enough at the corner; and then came the unpleasant part of the thing, for the man walked over the child and left her making a noise on the ground. It does not sound very bad, but it was disagreeable to see.

*Specific.* All at once I saw two figures: one a little man who was stumping along eastward at a good walk, and the other a girl of maybe eight or ten who was running as hard as she was able down a cross street. Well, sir, the two ran into one another naturally

[1] Lamont, *English Composition*, pp. 340, 341.

enough at the corner; and then came the horrible part of the thing; for the man trampled calmly over the child's body and left her screaming on the ground. It sounds nothing to hear, but it was hellish to see."

"Do not write 'quite a distance' when you can just as well write 'twelve miles,' nor 'rude habitations' when you mean 'adobe huts,' nor 'intoxicating liquor' when you mean 'Kentucky bourbon.' Let your trees be maples or sycamores or live-oaks, and your birds towhees or blue-jays or vireos. Give your characters a name, your incidents a date, and even your sunsets a geographical location. Macaulay understood well the value of this device. The *Spectator* is 'served up every morning with the bohea and rolls.' When young men of rank went into the navy, 'Mulgrave, Dorset, Rochester, and many others, left the playhouses and the Mall for hammocks and salt pork.' Another man might have written: 'Whenever the Mahrattas threatened an incursion, the inhabitants fled for their lives.' But Macaulay writes: 'Wherever their kettledrums were heard, the peasant threw his bag of rice on his shoulder, hid his small savings in his girdle, and fled with his wife and children to the mountains or the jungles—to the milder neighborhood of the hyena and the tiger.'" [1]

**d. Variety** is the life of speech. "Deadly monotony" is a familiar term that is full of meaning. Monotony always tends to put an audience to sleep; it dulls interest and kills attention. Monotony of voice, of rhythm, of sentence structure, of paragraph organization, in words, in the use of evidence and illustration—in fact monotony of any kind tires and alienates the audience and makes persuasion difficult or impossible. Avoid monotony by securing, first, variety of material; second, variety of phrase, sentence, paragraph, etc. Such material spoken with the mind alert, with a "lively sense of communication" will necessarily insure a varied de-

[1] Newcomer, *Elements of Rhetoric*, p. 238.

livery. "Seek ye first a variety of thought, and variety of delivery will be added unto you." The different qualities of persuasion, as has been said, are of course intermingled. Having some of them helps one to get the others. It is a universal law. "To him that hath shall be given." He who has simplicity and vividness will usually have variety also without taking special thought to obtain it.

(I) **Comparison and climax.** Two closely associated rhetorical methods that aid in securing the quality of variety (as well as the quality of vividness) are comparison and climax. The student is doubtless familiar with these as explained in all modern books on rhetoric and composition. The thoroughness of Whately's paragraphs written in 1846 may give a deeper understanding. "Comparison is one powerful means of exciting or heightening any emotion: *viz.:* by presenting a parallel between the case in hand and some other that is calculated to call forth such emotions; taking care of course to represent the present case as stronger than the one it is compared with, and such as ought to affect us more powerfully.

"When several successive steps of this kind are employed to raise the feelings gradually to the highest pitch (which is the principal employment of what Rhetoricians call the Climax), a far stronger effect is produced than by the mere presentation of the most striking object at once. It is observed by all travellers who have visited the Alps, or other stupendous mountains, that they form a very inadequate notion of the vastness of the greater ones, till they ascend some of the less elevated (which yet are huge mountains), and thence view the others still towering above them. And the mind, no less than the eye, cannot so well take in and do justice to any vast object at a single glance, as by several successive approaches and repeated comparisons. Thus in the well-known Climax of Cicero in the Oration against Verres, shocked as the Romans were likely to be at the bare mention of the crucifixion of one of their citizens, the suc-

cessive steps by which he brings them to the contemplation of such an event, were calculated to work up their feelings to a much higher pitch: 'It is an outrage to bind a Roman citizen; to scourge him is an atrocious crime; to put him to death is almost parricide; but to *crucify* him—what shall I call it?'

"It is observed, accordingly, by Aristotle, in speaking of Panegyric, that the person whom we would hold up to admiration, should always be compared, and advantageously compared, if possible, with those that are already illustrious, but if not, at least with *some* person whom he excels: to *excel*, being in itself, he says, a ground of admiration. The same rule will apply, as has been said, to all other feelings as well as to Admiration: Anger, or Pity, for instance, are more effectually excited if we produce cases such as would call forth those passions, and which, though similar to those before us, are not so strong; and so with respect to the rest." [1]

**C. The audience. 1. Adaptation to a particular audience.** Know your audience and adapt your speech to your audience. This, in summary, is the whole theory of handling an audience, but it may be well to be somewhat more detailed and specific. By knowing your audience is meant that you should know as accurately as possible the interests and prejudices of each audience in regard to the subject you are to present to them, and to the occasion on which you speak. Do not deliver the same speech to six different types of audiences to whom you have to present the same subject. Discover how these audiences differ one from the other and adapt your speech to each particular audience. In order to do this, consider carefully *what ideas in your speech will most forcibly affect the emotions of your particular hearers or readers.* There are in every question certain phases of it that have a particular interest for any particular audience. The workingmen of Liverpool in 1863 were most interested in the industrial side of the slavery question, and Beecher showed his consummate

[1] Whately, R., p. 142.

tact in choosing this as the one phase to be treated above all others at the mass-meeting in Philharmonic Hall. It would have been folly to have discussed the question from the standpoint of American patriotism. On the other hand, before a council of clergymen in the United States, it would have been the immorality of "man owning man" that would have been the theme of persuasion. It often happens that speakers and writers treat their subjects from too many points of view. They turn the question over and examine it on every side, when the men whom they address are moved in mind or heart *by only one aspect* of it all. Intellect may be the same in every audience, varying only in the degree of its keenness; but the emotional interests of audiences differ widely in their very nature. In any subject there are only certain phases that can touch these varying emotions, and it is a fundamental duty of one who would persuade, to consider well what these interesting phases are. Then his appeals will be well directed toward the vulnerable points, and his blows will be of some effect on the will of his audience.

**2. Tact.** The quality that lies at the basis of adaptation is tact. The tactful person easily adapts his remarks to his audience. Do not misunderstand what is meant by tact. It does not mean hypocrisy, flattery, servility, obsequiousness. There is nothing underhanded or deceitful about it. It is nearer to politeness, consideration for the feelings of others, good manners. Your despiser of tact uses a sledge hammer for all purposes whether the task at hand properly requires a tack hammer or a pile driver. He is usually as incapable of great force as he is of delicate touch. He is an unskilled workman—a bungler who tries to make up for his lack of intelligence and politeness by ill-bred boasting of his honesty and good intentions. Of course tact is no proper *substitute* for careful preparation and honest convictions, but it is the most powerful *ally* of preparation and purpose. To decry tact because *some* clever people rely on it to the exclusion of other means is silly. It is like decrying education because educated

criminals are more dangerous than others. Intelligence is, of course, a more dangerous adversary than stupidity—it is also a more effective champion.

Early in this book we said that persuasion might be likened to the engine of an automobile, conviction to the steering gear. In the following extract, *talent* means practically that which is covered in argumentation by the word conviction—evidence, logic, fact,—the general worth and truth of your case; *tact* means persuasion, the power of making your case effective, of finding a way to get your truth accepted by those to whom you present it. "Talent is something, but tact is everything. Talent is serious, sober, grave, and respectable; tact is all that, and more too. It is not a sixth sense, but it is the life of all the five. It is the open eye, the quick ear, the judging taste, the keen smell, and the lively touch; it is the interpreter of all riddles, the surmounter of all difficulties, the remover of all obstacles. It is useful in all places, and at all times; it is useful in solitude, for it shows a man his way into the world; it is useful in society, for it shows him his way through the world.

"Talent is power, tact is skill; talent is weight, tact is momentum; *talent knows what to do, tact knows how to do it:* talent makes a man respectable, tact will make him respected; talent is wealth, tact is ready money. . . .

"Take them to the bar, and let them shake their learned curls at each other in legal rivalry. Talent sees its way clearly, but tact is first at its journey's end. Talent has many a compliment from the bench, but tact touches fees from attorneys and clients. *Talent speaks learnedly and logically, tact triumphantly.* Talent makes the world wonder that it gets on no faster, tact excites astonishment that it gets on so fast. And the secret is, that tact has no weight to carry; it makes no false steps; it hits the right nail on the head; it loses no time; it takes all hints; and, by keeping its eye on the weathercock, is ready to take advantage of every wind that blows.

"Take them into the church. Talent has always something worth hearing, tact is sure of abundance of hearers; . . . *talent convinces, tact converts.* . . .

"*Talent has the ear of the house, but tact wins its heart and has its votes:* talent is fit for employment, but tact is fitted for it. . . . It has served an invisible and extemporary apprenticeship: it wants no drilling; it never ranks in the awkward squad; it has no left hand, no deaf ear, no blind side. It puts on no looks of wondrous wisdom, it has no air of profundity, but plays with the details of place as dexterously as a well-taught hand flourishes over the keys of the pianoforte. It has all the air of commonplace, and all the force and power of genius." [1]

**3. Indirect appeal.** The value of what is called the "indirect appeal" has often been discussed. It is probably one of the best and safest "thumb rules" ever applied to the problem of persuasion. Stated succinctly, it is: Never avow in so many words your purpose to arouse any particular emotion. The reasons for this rule have been set forth by many writers, but none have surpassed the discussion of Whately, which follows in full:

"The first and most important point to be observed in every address to any Passion, Sentiment, Feeling, etc., is (as has been already hinted), that it should not be introduced as such, and plainly avowed; otherwise the effect will be, in great measure, if not entirely, lost. This circumstance forms a remarkable distinction between the head now under consideration, and that of Argumentation (conviction). When engaged in Reasoning, properly so called, our purpose not only need not be concealed, but may (as I have said), without prejudice to the effect, be distinctly declared: on the other hand, even when the Feelings we wish to excite are such as ought to operate, so that there is no reason to be ashamed of the endeavours thus to influence the hearer, still our purpose

[1] "Tact and Talent," *The London Atlas.* Quoted by Clark and Blanchard, pp. 110, 111.

and drift should be, if not absolutely concealed, yet not openly declared, and made prominent. Whether the motives which the orator is endeavouring to call into action be suitable or unsuitable to the occasion,—such as it is right, or wrong, for the bearer to act upon,—the same rule will hold good. In the latter case it is plain, that the speaker who is seeking to bias unfairly the minds of the audience, will be the more likely to succeed by going to work clandestinely, in order that his hearers may not be on their guard and prepare and fortify their minds against the impression he wishes to produce. In the other case,—where the motives dwelt on are such as ought to be present, and strongly to operate,—men are not likely to be pleased with the idea that they *need* to have these motives urged upon them, and that they are not already sufficiently under the influence of such sentiments as the occasion calls for. A man may indeed be convinced that he is in such a predicament; and may ultimately feel obliged to the Orator for exciting or strengthening such sentiments; but while he confesses this, he cannot but feel a degree of mortification in making the confession, and a kind of jealousy of the apparent assumption of superiority, in a speaker, who seems to say, 'Now I will exhort you to feel as you ought on this occasion;' 'I will endeavour to inspire you with such noble, and generous, and amiable sentiments as you ought to entertain;' which is, in effect, the tone of him who avows the purpose of Exhortation. The mind is sure to revolt from the humiliation of being thus moulded and fashioned in respect to its feelings, at the pleasure of another; and is apt, perversely, to resist the influence of such a discipline.

"On the other hand, there is no such implied superiority in avowing the intention of convincing the understanding. Men know, and (what is more to the purpose) feel, that he who presents to their minds a new and cogent train of Argument, does not necessarily possess or assume any offensive superiority; but may, by merely having devoted a particular

attention to the point in question, succeed in setting before them Arguments and Explanations which have not occurred to themselves. And even if the arguments adduced, and the conclusions drawn, should be opposite to those with which they had formerly been satisfied, still there is nothing in this so humiliating, as in that which seems to amount to the imputation of a moral deficiency.

"It is true that Sermons not unfrequently prove *popular*, which consist avowedly and almost exclusively of Exhortation, strictly so called,—in which the design of influencing the sentiments and feelings is not only apparent, but prominent throughout; but it is to be feared, that those who are the most pleased with such discourses, are more apt to apply these Exhortations to their *neighbours* than to themselves; and that each bestows his commendation rather from the consideration that such admonitions are much needed, and must be generally useful, than from finding them thus useful to himself.

"When indeed the speaker has made some progress in exciting the feelings required, and has in great measure gained possession of his audience, a direct and distinct Exhortation to adopt the conduct recommended will often prove very effectual; but never can it be needful or advisable to *tell* them (as some do) that you are *going* to *exhort* them.

"It will, indeed, sometimes happen that the excitement of a certain feeling will depend, in some measure, on a process of Reasoning; e. g., it may be requisite to prove, where there is a doubt on the subject, that the person so recommended to the Pity, Gratitude, etc., of the hearers, is really an object deserving of these sentiments; but even then, it will almost always be the case, that the chief point to be accomplished shall be to raise those feelings to the requisite height, after the understanding is convinced that the occasion calls for them. And this is to be effected not by Argument, properly so called, but by presenting the circumstances in such a point of view, and so fixing and detaining the attention upon them,

that corresponding sentiments and emotions shall gradually, and as it were spontaneously, arise.

"Sermons would probably have more effect, if, instead of being, as they frequently are, directly *hortatory*, they were more in a *didactic* form; occupied chiefly in *explaining* some transaction related, or doctrine laid down, in Scripture. The generality of hearers are too much familiarized to direct exhortation to feel it adequately: if they are led to the same point obliquely, as it were, and induced to dwell with interest for a considerable time on some point, closely, though incidentally, connected with the most awful and important truths, a very slight application to themselves might make a greater impression than the most vehement appeal in the outset. Often indeed they would themselves make this application unconsciously; and if on any this procedure made no impression, it can hardly be expected that anything else would. To use a homely illustration, a moderate charge of powder will have more effect in splitting a rock, if we begin by *deep boring*, and introducing the charge into the very heart of it, than ten times the quantity, exploded on the surface." [1]

**4. Responsibility: Facing the truth.** The thing that can and should be done, directly, openly, bluntly, is to tell the audience of their own responsibility. There is no need here for indirectness. You are not talking about what feeling should stir them. You do not say "I propose to arouse a feeling of guilt, or sympathy, or love or hate," but "you are responsible for this situation and I propose to prove it to you." "This is the truth and you must face it." "There are the facts. It's up to you. What are *you* going to do?" Says Winans [2] on this point: "It is often very difficult to bring home to an audience the feeling that they are personally responsible for the matter in hand. The preacher who levels a sermon at the head of an erring deacon is congratulated by that very deacon, who chuckles 'to think how Brother Smith got scored this morning.' The preacher is continually finding

[1] Whately, pp. 136–138. [2] Winans, pp. 265–268.

it necessary to say, 'If the coat fits you, put it on.' The citizen who attacks a municipal abuse finds dozens to 'sympathize' and say, 'Yes, yes, why doesn't somebody attend to that?' for one to step forward and say,' I have come to help.' Very likely the priest and the Levite who passed the injured man by, said, 'Too bad! Somebody should care for him, and clean out those bandits too; but my business in Jericho won't wait.' We can readily see that the speaker's task is to get people to face their obligation squarely, to give it attention when other matters of business and pleasure are taking their minds. He must make them see that the public nuisance, the grafting city administration, the violation of tenement-house laws, the endangered honor of the university, are the personal responsibility, not only of all of his hearers, but of each of them; not something that 'they' should attend to, but something that unofficial John Smith should attend to.

"The most obvious thing to do is to declare bluntly the individual responsibility of each one present. But audiences are rather hardened to this; we are all told of innumerable imperative duties as men and citizens, as members of this body and that. At least a new and interesting way of bringing home the responsibility is needed, especially when one's hearers are not yet aroused over the situation. . . .

"An important way of awakening the sense of responsibility, which also enlists pride, is to give one's hearers something definite to do, whether that something be really important work in a position of trust, or merely signing a petition, or standing up to be counted. Get them at least to commit themselves publicly to your cause so that the public will expect action from them. Get as many as feasible serving on committees to do specific tasks and report upon them. Men of real efficiency may be interested in a cause just by the chance to do work well; they like to make things go. Other men may be enlisted by being made to feel that they are needed. . . .

"It is important to prevent people from deceiving themselves with excuses. Professor James, in discussing attention and will, puts stress upon the difficulty we often have in keeping attention upon the right action, seeing clearly that a duty is a duty and that an evil action is an evil action. . . . It is sometimes the speaker's business to compel his audience to face unpleasant facts as real, and in particular to prevent their putting them away by calling them by other names. . .

"The part of the persuader in helping or compelling others to accept and stick to the right conception, labeled with the right name, is plain enough. He should not permit his hearers to call rudeness or destructiveness *fun*, penuriousness *caring for one's own household*, indolence *weariness or illness*, snobbishness *refinement*, lies *excuses*, bigotry *religion*, or to suffer from the two delusions from which an Oxford don says his little world suffers,—having no opinions and calling it *balanced mind*, and expressing no opinions and calling it *moderation*.

"Dr. Wiley tells a story of a member of a certain Middle West legislature who sought an appropriation of $100,000 for the protection of public health; but could secure only $5,000. One morning he put upon the desk of each legislator before the opening of the session, a fable which ran something like this: 'A sick mother with a baby is told by a physician that she has tuberculosis and that she should seek a higher altitude. Lack of means prevents her going. She applies to the state government and is told that not a dollar is available to save the mother and her child from death. At the same time a farmer observes that one of his hogs has cholera symptoms. He sends a telegram, collect, to the government. The inspector comes next day, treats the hog with serum and cures it. Moral: Be a hog!' The $100,000 appropriation was promptly granted. The legislators saw from this vivid presentation of the case that what they had variously called *economy*, *common-sense*, *business is business*, etc., was really putting the hog above the child."

**5. The friendly audience.** Audiences may be, of course, friendly, neutral, or hostile to the speaker or his cause. The problem of persuasion is obviously comparatively easy with friendly hearers, fairly difficult with the neutral group, and hardest with the hostile audience. Read the following and note the contrast due to the different circumstances under which these two speeches were delivered. This is the eloquent conclusion of one of Henry Ward Beecher's sermons in the pulpit of the Plymouth Church, Brooklyn:—

"We are children of God in proportion as we are in sympathy with those who are around about us, and in proportion as we bear with each other. How sacred is man, for whom Christ died! And how ruthlessly do we treat him! Oh, my brother, oh, my sister, oh, father and mother, you are of me, and I am of you! We have the same temptations. We are walking to the same sounds. We are upon the same journey, out of darkness toward light; out of bondage toward liberty; out of sin toward holiness; out of earth toward heaven; out of self toward God. Let us clasp hands. Let us cover each other's faults. Let us pray more and criticise less. Let us love more and hate less. Let us bear more and smite less. And by and by, when we stand in the unthralled land, in pure light, made as the angels of God, we will pity ourselves for every stone that we threw, but we shall not be sorry for any tear that we shed, or any hour of patient endurance that we experienced for another. Not the songs that you sang, not the verses that you wrote, not the monuments that you built, not the money that you amassed, but what you did for one of Christ's little ones, in that hour will be your joy and your glory above everything else.

"'Brethren, this is a sermon that ought to have an application to-day, on your way home, in your houses, and in your business to-morrow. From this time forth, see that you are better men yourselves, and see that your betterment is turned to the account of somebody else. And consider yourselves as growing in grace in proportion as you grow in patience and helpfulness. Consider yourselves as growing in piety and as growing toward God in proportion as you grow in sympathy for men.'" [1]

[1] *Plymouth Pulpit*, Eighth Series, March–September, 1872, p. 245.

**6. The hostile audience.** With this, contrast the following appeal by the same speaker to a hostile public meeting in Liverpool, England. Mr. Beecher had already made several speeches in the cities in England in behalf of the Northern interests in the Civil War, and this was his greatest effort. Liverpool was the recognized headquarters of the Southern sympathizers in England; so that the audience that confronted him was largely hostile, and he was compelled to fight for a hearing in the face of hisses, catcalls, and every form of indecent interruption. Mr. Beecher began:—

"For more than twenty-five years I have been made perfectly familiar with popular assemblies in all parts of my country except the extreme South. There has not for the whole of that time been a single day of my life when it would have been safe for me to go south of Mason and Dixon's line in my own country, and all for one reason: my solemn, earnest, persistent testimony against that which I consider to be the most atrocious thing under the sun—the system of American slavery in a great free republic. (Cheers.) I have passed through that early period when right of free speech was denied to me. Again and again I have attempted to address audiences that, for no other crime than that of free speech, visited me with all manner of contumelious epithets; and now since I have been in England, although I have met with greater kindness and courtesy on the part of most than I deserved, yet, on the other hand, I perceive that the Southern influence prevails to some extent in England. (Applause and uproar.) It is my old acquaintance; I understand it perfectly—(laughter)—and I have always held it to be an unfailing truth that where a man had a cause that would bear examination he was perfectly willing to have it spoken about. (Applause.) And when in Manchester I saw those huge placards, 'Who is Henry Ward Beecher?' (laughter, cries of 'Quite right,' and applause), and when in Liverpool I was told that there were those blood-red placards, purporting to say what Henry Ward Beecher has said, and calling upon Englishmen to suppress free speech, I tell you what I thought. I thought simply this, 'I am glad of it.' (Laughter.) Why? Because if they had felt perfectly secure, that *you* are the minions of the South and the slaves of

slavery, they would have been perfectly still. (Applause and uproar.) And, therefore, when I saw so much nervous apprehension that, if I were permitted to speak—(hisses and applause)—when I found they were afraid to have me speak—(hisses, laughter, and "No, no!")—when I found that they considered my speaking damaging to their cause—(applause)—when I found that they appealed from facts and reasonings to mob law—(applause and uproar)—I said, no man need tell me what the heart and secret counsel of these men are. They tremble and are afraid. (Applause, laughter, hisses, "No, no!" and a voice, "New York mob.") Now, personally, it is a matter of very little consequence to me whether I speak here to-night or not. (Laughter and cheers.) But one thing is very certain, if you do permit me to speak here to-night, you will hear very plain talking. (Applause and hisses.) You will not find a man that dared to speak about Great Britain three thousand miles off, and then is afraid to speak to Great Britain when he stands on her shores. (Immense applause and hisses.) And if I do not mistake the tone and temper of Englishmen, they had rather have a man who opposes them in a manly way—(applause from all parts of the hall)—than a sneak that agrees with them in an unmanly way. (Applause and "Bravo!") Now, if I can carry you with me by sound convictions, I shall be immensely glad (applause); but if I cannot carry you with me by facts and sound arguments, I do not wish you to go with me at all; and all that I ask is simply FAIR PLAY. (Applause, and a voice. "You shall have it, too.")

"Those of you who are kind enough to wish to favor my speaking,—and you will observe that my voice is slightly husky from having spoken almost every night in succession for some time past,—those who wish to hear me will do me the kindness simply to sit still; and I and my friends the Secessionists will make all the noise. (Laughter.)" [1]

It is striking indeed that these two speeches were from the same lips. They are both strong emotional appeals, and the power of each depends, in no small degree, upon the fitness for the time and place. In the case of the sermon, Mr. Beecher spoke to an audience gathered on a quiet Sabbath

[1] *Patriotic Addresses*, Beecher, p. 516.

day, in a consecrated edifice, in whose "dim religious light" were felt all the sacred influences of architecture and of music. The minds of his hearers were open to high thoughts and ready to meet in close communion of sympathy and feeling with the orator. So he might well touch the chords of mutual love and of aspiration. In Liverpool, before a strange audience in a strange hall, his coming heralded by scurilous placards and threats against his life, the orator was compelled to fight for even the privilege of speech itself. To have addressed such a crowd in terms of "holiness" and "temptation" would have been to raise a riot. On the other hand, if the pastor of the Plymouth pulpit had appealed to his congregation for "fair play," he would have been charged with insanity.

Beecher's speech in Liverpool also affords a good illustration of the *need of knowing the character and previous opinions of an audience.* His audience was largely made up of laboring men. They were struggling from day to day to make an honest living, and their standard of value was wages; they commonly estimated ideas in terms of pounds, shillings, and pence. The master of persuasion knew their thoughts and directed his appeal accordingly. He founded his reasoning on the basis of the benefits to English industry and wages, from the freeing of the Southern slaves. English industry, he said, needs not cotton, but consumers; slaves are not consumers, but make them free, and they become the patrons of British cotton and linen, machines and books. Furthermore, he spoke in terms that would reach and stir a working man.

"It is a necessity of every manufacturing and commercial people that their customers should be very wealthy and intelligent. Let us put the subject before you in the familiar light of your own local experience. To whom do the tradesmen of Liverpool sell the most goods at the highest profit? To the ignorant and poor, or to the educated and prosperous? (A voice, 'To the Southerners.' Laughter.) The poor man buys simply for his body; he buys food,

he buys clothing, he buys fuel, he buys lodging. His rule is to buy the least and the cheapest that he can; he brings away as little as he can; and he buys for the least he can. . . .

"A savage is a man of one story, and that one story a cellar. When a man begins to be civilized, he raises another story. When you christianize and civilize the man, you put story upon story, for you develop faculty after faculty, and you have to supply every story with your productions. The savage is a man one story deep, the civilized man is thirty stories deep. (Applause.) Now, if you go to a lodging-house where there are three or four men, your sales to them may, no doubt, be worth something; but if you go to a lodging-house like some of those which I saw in Edinburgh, which seem to contain about twenty stories ('Oh, oh!' and interruption), every story of which is full, and all who occupy buy of you—which is the better customer, the man who is drawn out or the man who is pinched up?" [1]

**7. Eight suggestions for persuasion illustrated.** This Liverpool speech is generally used as the basis of discussion of the problem of handling a hostile audience—or of persuasion in general. Baker and Huntington discuss eight suggestions for persuasion, which are summarized as follows: [2]

"1. Ascertain the habits of mind of your proposed audience.

"2. Determine the special interests and the idiosyncrasies of your audience.

"3. Connect lower with higher motives.

"4. Remember that the larger the audience the higher the motives to which appeal may be made.

"5. Startling an audience may rout indifference or effectively emphasize.

"6. Let the nature of your task determine the order of your persuasion.

"7. Unify the persuasion for some definite purpose.

"8. Be flexible; adapt the work to unexpected exigencies."

After this discussion they show how Beecher in this speech exemplified all of these suggestions (symbols not in the origi-

[1] *Patriotic Addresses*, Beecher, p. 519.

[2] *The Principles of Argumentation*, p. 331.

nal). "Of course, masterly persuasion uses one or more of these suggestions as experience and intuition prompt. Beecher's *Speech at Liverpool* shows skillful recognition of all of them. (1) Beecher planned it on the idea that an English audience habitually likes fair play, courage, independence, and good nature. He asked for the first because he could offer the other three in exchange. (2) He constantly sought to show the audience the connection between his subject and their personal interests. (3) He knew that it is safest to appeal to high motives, and that when lower motives are used they must lead into higher. (4) His experience told him that in so large an audience as his he might well connect his special appeal with the highest motives. (5) He startled his audience more than once by his frankness, his courage, or his swift turning of the tables. (6–7) The persuasion of each division worked toward a purpose which is stated first in the last paragraphs of the address. (8) Nearly every page illustrates his skill in grappling with conditions which could not have been foreseen. Indeed, as an illustration of successful coping with problems of persuasion raised by the nature of the subject, the relation of the speaker to it and to the audience, and the relation of the audience to the subject, the *Speech at Liverpool* should be studied from end to end." [1]

[1] *The Principles of Argumentation*, p. 330.

## CHAPTER 12

### THE INTRODUCTION

### OUTLINE

I. The function of the introduction.
  A. Conviction.
    1. Definition.
      a. By authority.
      b. Etymology.
      c. Context.
      d. Analogy.
      e. Illustration.
      f. Exclusion.
      g. Analysis.
    2. Explanation, issues, and partition.
      a. Direct or inverted order.
      b. Illustration of the three parts.
      c. Two or more issues: parallel partition.
      d. Issues emphasized.
      e. Excluding irrelevant matter.
  B. Persuasion.
    1. Calm, courteous, conversational.
    2. Do not detract from your theme.
    3. Strange or hostile audiences.
    4. Never lose temper.
    5. Inattentive audience.

**I. The function of the introduction** is to prepare the way for the work of the discussion proper. This duty of the introduction is twofold. Both an intellectual and an emotional approach to the problem must usually be made in the introduction. The intellect must be prepared, so that all the proofs may have their fullest effect; the emotions, in order that the speaker or writer may from the first be brought into har-

monious and sympathetic relations with his audience. So the introduction must contain the proper approach to both conviction and persuasion. Cicero said the purpose of the introduction is to render the audience "*benevolos, attentos, dociles*"—well disposed, attentive, ready to be influenced. But it should be remembered, in connection with this much quoted remark that Cicero divided speeches into six parts (introduction, narration, proposition, proof, refutation, conclusion). By introduction he meant only the opening remarks whose function is almost purely persuasive. The work in conviction to be accomplished in the introduction as we understand it, Cicero took up under "narration and proposition." Some modern writers have given a threefold division of the function of the introduction. Professor F. B. Robinson[1] gives as the purpose of the introduction, "(A) to put the audience in a state of favorable feeling; (B) to arouse interest and secure attention; and (C) to prepare the audience to understand the message." It will be noticed that the first of these aims at persuasion, the second at persuasion and conviction, and the third at conviction. Pattee[2] says "the work of the introduction is threefold: (1) to conciliate the audience; (2) to explain the subject; and (3) to outline the discussion." The first of these is a work in persuasion, the second and third have to do with conviction. We shall discuss the function of the introduction under the familiar division of conviction and persuasion, as explained earlier in this book,[3] using appropriate subdivisions under each.

**A. Conviction.** We have seen that, with respect to conviction, it is the duty of the introduction *to give all the information necessary for an understanding of the discussion;* also that the parts *usually* necessary for the accomplishment of this purpose are, briefly: (1) a *definition* of terms; (2) an *explanation* of the question in such a way as to lead up to (3) the *issues*, and (4) the *partition* or statement of the points to be proved in the discussion.

[1] Page 31. [2] Page 28. [3] See ch. 1.

**1. Definition**[1] in argumentation serves two purposes. It serves, *first*, to enable the writer, in the beginning of his work in preparation, *to find out the real meaning* of the question. *Secondly*, it serves *to make the meaning clear to the reader or hearer.* In the execution of the former of these two purposes the definitions do not need to be expressed at all; it is sufficient that the investigator find and understand them himself. But in presenting his proofs to others, the arguer must consider the methods he will need to use, in order to make his definitions effective with the persons he is seeking to convince. To present a definition forcibly is not always easy. A mere dictionary definition, which we have seen to be of little or no value in finding out the meaning of the question, is of even less value in the work of presentation. If a person does not understand the meaning of a word or phrase, as used in a proposition, his confusion will not usually be cleared by the quotation of a mere sentence from a dictionary. In the first place, such a definition is nearly always too short and too compact to be grasped in its full meaning, in the short time given for the statement of it. Moreover, it will probably not be convincing. If the person who is being argued with is to be made to accept fully the definition, he must be persuaded of its reasonableness; he must be made to see *why* the term means what the disputant says, and so be brought to accept it without doubt or qualification. It is for these reasons that we find all the best argumentative writers and speakers taxing the resources of their ingenuity for interesting, clear, and forcible *methods of presenting* their definitions. The following are some of the most common and effective methods used.

**a. By authority.** The arguments from authority, which have already considered elsewhere,[2] may be used with good effect in the explanation of definitions. We have seen that a dictionary statement is of little value; but there are few

[1] See ante, p. 186, quotation from Bodkin.

[2] See chapter 6, Evidence, p. 99.

ways of defining more persuasive with an audience, than to quote to them an explanation of the term, as given by some recognized specialist in that branch of affairs with which the word or phrase is concerned. The quotation, however, should not usually be short or dogmatic in form. It should be an explanation rather than a mere sentence statement. Also, care should be taken, as in any argument from authority, that the reliability of the person quoted is fully recognized, so that the definition may have the full force of expert evidence. In using this method, also, it is usually desirable to explain the quotation, either before or after reading it, in order to be sure that it is understood and accepted by the persons addressed. It will be noticed in the selection that follows, that the speaker, after citing his definition, goes on at considerable length to comment on the reasonableness of the statements of his authority, and to show the bearing of the definition on the question before the court. The illustration is from the speech by Mr. William A. Beach before a military commission in Washington, D. C., 1865. He is here defining the term "military law," quoting from O'Brien's *American Military Law* (pp. 26–27):—

"'Military law may be defined to be a body of rules and ordinances prescribed by competent authority for the government of the military state considered as a distinct community. . . . The general law claims supreme and undisputed jurisdiction over all. The military law puts forth no such pretensions. It aims solely to enforce on the soldier the additional duties he has assumed. It constitutes tribunals for the trial of breaches of military duty only. It attempts not to regulate or adjust the civil rights of those who fall under its cognizance, nor does it affect to redress civil injuries or private wrongs, unless they be, in some degree, connected with the safety and good order of the military state as having a tendency to disturb its peace and quiet. Civil injuries or private wrongs, not immediately related to the rights of a soldier as such, are left, like his civil rights, to the redress of the general or common law.' . . .

"Your Honors perceive how completely the extract justifies my

reasoning. It will impress Your Honors with its obvious propriety. It assigns to Courts like yourselves their true position. It enables them to accomplish their full office, without interference with the ordinary tribunals of the country. It disturbs none of the relations of civil life. It assigns to you exclusively the field of military discipline and efficiency. It maintains a wise harmony between the necessity which called you into existence and the functions you should exercise." [1]

**b. By etymological derivation.** The meaning of a term may often be made clear, by tracing the etymological derivation of the word or the history of the development of its meaning. This method is, perhaps, not so common as many others, for ambiguity in a word does not, in argumentation, usually arise from any confusion of its common meanings such as might be removed by a study of its life history. But wherever this method may be used it is always effective, because such an explanation is logical and clear. John Quincy Adams, in his Sixteenth Lecture on Rhetoric and Oratory at Harvard University in 1807, thus defined the word "passion":—

"There is, however, a more restricted sense in which the term 'passion' is used, and of which the precisest idea will be formed by tracing its etymology. In this sense it is equivalent to sufferance, distress, anguish. In this sense it has emphatically been applied to the last sufferings of the Saviour; and to this sense it must be confined when we are inquiring into those pathetic powers of oratory which awaken the sympathies of the audience. These very words themselves, 'pathetic' and 'sympathy,' are both derived from the Greek πάθος, of which the Latin *passio* is merely a translation. And the meaning, universally annexed to them, has kept closer to their original derivation than the Latin term." [2]

Blackstone, in Chapter XXVII of his *Commentaries*, defines "heirlooms" by this method:—

"Heirlooms are such goods and personal chattels as, contrary to the nature of chattels, shall go by special custom to the heir along

[1] *Great Speeches by Great Lawyers*, p. 459.
[2] *J. Q. Adam's Lectures*, Vol. I, pp. 380, 381.

with the inheritance, and not the executor of the last proprietor. The termination, *loom*, is of Saxon origin, in which language it signifies a limb or member; so that an heirloom is nothing else but a limb or member of the inheritance." [1]

**c. From context.** The meaning of a term often depends upon the way in which it is used in connection with certain other terms, in the same sentence or paragraph. Under such conditions, the best way to define the terms is to explain fully how they are connected with one another. Such an explanation is sure to be forcible, if the reasoning is sound, for it shows the person addressed just why the term means what is alleged. An excellent illustration of this method was given by Daniel Webster in his speech before the Supreme Court in the case of Ogden *vs.* Saunders, 1807. Mr. Webster is here defining the word "contracts":—

"The most conclusive argument, perhaps, arises from the connection in which the clause stands. The words of the prohibition, so far as it applies to civil rights, or right of property, are, that 'no State shall coin money, emit bills of credit, make anything but gold and silver coin a tender in the payment of debts, or pass any law impairing the obligation of contracts.' . . . The parts of the prohibition are connected by the subject-matter, and ought, therefore, to be construed together. Taking the words thus together, according to their natural connection, how is it possible to give a more limited construction to the term 'contracts,' in the last branch of the sentence, than to the word 'debts,' in that immediately preceding? Can a State make anything but gold and silver a tender in payment of future debts? This nobody pretends. But what ground is there for a distinction? No State shall make anything but gold and silver a tender in the payment of debts, either existing or future, but that contracts spoken of are subsisting contracts only. Such a distinction seems to us wholly arbitrary." [2]

**d. By analogy.** It is sometimes effective to show an analogy between the terms to be defined and some other term

[1] Chase's *Blackstone*, p. 536.

[2] *The Works of Daniel Webster*, Vol. VI, p. 38.

whose meaning is better known. By comparing the ambiguous phrase with some standards with which the audience are well acquainted from their everyday experience, the ambiguity is removed. Mr. Seward, in his defence of William Freeman before the Cayuga Oyer and Terminer, Auburn, N. Y., 1846, defined "insanity" by the method of analogy as follows:—

"Although my definition would not perhaps be strictly accurate, I should pronounce insanity to be a derangement of the mind, character, and conduct resulting from bodily disease. I take this word 'derangement,' because it is one in common everyday use. We all understand what is meant when it is said that anything is ranged or arranged. The houses on a street are ranged, if built upon a straight line. The fences on your farms are ranged. A tower, if justly built, is ranged; that is, it is ranged by the plummet. It rises in a perpendicular range from the earth. A file of men marching in a straight line are in range. 'Range yourselves, men,' though not exactly artistical, is not an uncommon word of command. Now what do we mean when we use the word '*de*ranged'? Manifestly that a thing is not ranged, is not arranged, is out of range. If the houses on the street be built irregularly, they are deranged. If the fences be inclined to the right or left, they are deranged. If there be an unequal pressure on either side, the tower will lean, that is, it will be deranged. So if a man be insane. There was a regular line which he was pursuing, not the same line which you or I follow, for all men pursue different lines, and every sane man has his own peculiar path. All these paths are straight, and all are ranged, though all divergent. . . . If the fond mother becomes the murderer of her offspring, it is easy to see that she is deranged. If the pious man, whose steps were firm and whose pathway led straight to Heaven, sinks without temptation into criminal debasement, it is easy to see that he is deranged. But in cases where no natural instinct or elevated principle throws its light upon our research, it is often the most difficult and delicate of all human investigations to determine when a person is deranged.

"We have two tests. *First*, to compare the individual after the supposed derangement with himself as he was before. *Second*, to compare his course with those ordinary lines of human life which

we expect sane persons of equal intelligence and similarly situated to pursue." [1]

**e. By illustration.** One of the most common ways of explaining a term is to give illustrations of the interpretation put upon it. The greatest virtue of such a method lies in its vividness. A person will commonly remember a concrete example long after he has forgotten the statement of a principle. William Pinckney, in his defense of John Hodges before the Circuit Court of Maryland, at the opening of his speech gave an extended definition of "treason." The following is an excerpt from the first part of his explanation:—

"It may be affirmed as an universal proposition that criminal intention is the essence of every species of crime. . . .

"Take the case of a man who, in time of war, is charged with the defense of an important fortress or castle, which he surrenders to an incompetent force. What more effectual means could he have adopted to aid the enemy than the delivery of this fortress? The books will tell you that if he was bribed to this desertion of his duty, if he did it with a view to benefit the enemy, he is guilty of treason. But if pusillanimity was the cause, or if it arose from a false calculation of his own means, or the force of the enemy, he is not a traitor. You may banish him with ignominy from the ranks which he has disgraced, or try him by martial law as a coward or a fool; but he has committed no treason.

"Suppose a powerful force to invade the country, to which resistance is hopeless. They levy contributions, they do not proclaim that they will hang me if I neglect to comply with this order, but they threaten plunder and desolation. I know they have the power to execute that threat, and I comply accordingly. Now the paying of money or the furnishing of provisions is an assistance; it is 'giving aid and comfort' much more effectually than the delivery of a few prisoners or a deserter. Yet no man will call this treason, because there is no evidence of hostility to the interests of the country. The authorities say it is not treason." [2]

[1] *Works of William H. Seward*, Vol. I, p. 425.
[2] *Great Speeches by Great Lawyers*, p. 38.

**f. By exclusion.** The meaning of a term is often ambiguous because it is commonly understood to include more than it really ought to include. Various attributes, closely connected with the attributes properly implied in the term, may easily become confused with the term itself. The confusion may arise from the misrepresentation of an opponent, or—the common difficulty—from a careless confusion of ideas. In either case, the term is most satisfactorily defined by drawing the line of distinction between the essential and the unessential attributes, and by excluding the ideas that are extraneous, thus leaving the term to include only its natural and proper intent. An excellent example is found in the speech by James T. Brady in defence of the Savannah privateers, before the Circuit Court of the United States. Mr. Brady is here defining the term "piracy":—

"What are the circumstances, what are the acts, that, in view of the law, amount to piracy? You will understand me that, for the present, I entirely exclude from your consideration any of the particular circumstances which are supposed to give to the actual crime perpetrated a public character, lifting it out of the penal law that you administer, and out of the regions of private crime, into a field of quite different considerations. They are, undoubtedly, that the act done shall be with intent of depriving the person who is in possession of property, as its owner, or as the representative of that owner, of that property. . . . There must be actual violence, or the presence or exhibition of power and intent to use violence, which produces the surrender and delivery of the property. Such are the ingredients of robbery and piracy. And, gentlemen, these two ingredients are all; and you must rob one or the other of them of this, their poison, or the crime is completely proved, when the fact of the spoliation, with these ingredients, shall have been proved. The use that the robber or the pirate intends to make of retaliation, by way of injury, by way of provocation, by way of any other occasion or motive that seems justifiable to his own conscience to any form whatever of the higher law, has nothing to do with the completeness of the crime." [1]

[1] *Great Speeches by Great Lawyers*, p. 381.

**g. By analysis.** Any definition, by whatever method, before it can be presented, requires that the term be analyzed and the attributes essential to its meaning determined upon. The name "analysis," as denoting one of the modes of presenting a definition, does not mean that any more careful preliminary analysis of the terms by the writer or speaker is required than is necessary in any other case. It means only that a definition is often best presented by directly explaining to the audience what these essential attributes are, as they have been found by analysis. The method here called by the name "analysis" consists, then, in explaining the attributes that are properly implied in the term. For example, Mr. Beach, in defense of Samuel North, defined "crime" as follows:—

"It will be conceded that all crime, punishable by human authority, consists in the violation of some rule of conduct declared and published by some competent source. The principle is fundamental. It underlies the administration of criminal justice by all tribunals, whether military or civil. To constitute offense there must be law existing and law violated; and the law which declares it must be proclaimed and public. If it exist in the form of positive enactment, it must be published. If it be customary law, it must be general, uniform, acknowledged. The citizen cannot be entrapped into crime. He must be notified of the demands of society in all the departments of its action, whether of peace or war, before obedience can be exacted, and disobedience punished. In a government of laws those acts only are criminal which the law condemns; and publicity is one of its material requisites. The idea of secret statutes, withheld from the subject whose conduct they are to regulate, is hostile to every principle of just government, and excites the sternest indignation." [1]

There are, of course, other ways in which a definition may be presented; the foregoing are simply examples of some of the most desirable methods. The choice of method depends entirely upon the circumstances,—on the intelligence of the

[1] *Great Speeches by Great Lawyers*, p. 453.

audience, the nature of the question, and the nature of the term itself.

**2. Explanation, issues, and partition.** In considering the presentation of the remaining parts of the introduction, viz., the explanation of the question, the issues, and the partition, the three parts are best treated together. In this part of the presentation one should give practically without change whatever parts are needed of the brief already prepared. If the student does not have the discussion of brief drawing clearly in mind, he should refer, at this point, to the directions given for the introduction to a brief. In any introduction the explanation, the issues, and the partition must be very closely related: the explanation of the question must make the problem clear in such a way as to lead up to the issues, and make them seem the only natural outgrowth from the very nature of the case. It must cover a *narration* of whatever facts (in the history of the case) are necessary for an understanding of the discussion. It must show the *kind of question* being dealt with—what standards must be used in deciding it. This will lead clearly to a statement of the issues, which will be the questions which must be decided in order to decide this question in the right way. The partition, in like manner, must be made to seem the natural outgrowth from the issues. The purpose of the partition is, to make the persons to be convinced understand just how the proofs of the disputant meet the issues of the case, and establish his side of them. Consequently, the value of the partition depends largely upon its close and evident relation to the statement of the issues; sometimes the points of the issues are identical with the points of the partition.

**a. Direct or inverted order.** The more clearly your audience understands in advance what you believe the issues to be, what you think the question really involves, what you propose to prove, what your plan of campaign is, the more easily they can follow you. Let them see the road ahead and know where you propose to take them—unless you know

they will not like the road. If they are sure to be unwilling travellers, if they are afraid to follow this path, disinclined to reach the destination you have in mind, lead them to it gradually, logically, persuasively without frightening them or antagonizing them in advance.[1] Where ignorance is bliss, 'tis folly to state a partition. Professor Raymond M. Alden discusses this point under the heading "Two Methods of Approach." [2] "In a sense, of course, the debater has choice of more than one method in constructing his Introduction. He may state definitely not only the side of the case which he wishes to support, but the sort of proof which he intends to offer in supporting it. He may take the audience into his confidence, and tell them just what the plan of his speech is to be, in order that they may follow it as he proceeds and see that he does just what he proposed to do. Under ordinary circumstances, this method has great advantages. . . . Yet there may be cases where a different plan is advisable. When the cause to be defended is an extremely unpopular one, when the audience must be won—if at all—by slow and careful degrees, or when the proof to be presented is of such a nature as not to be appreciated until all the evidence is in, then the debater may adopt a more wary course. He may not explain the nature of his argument at the outset, perhaps not even admit which side he intends to establish; but may open up the question as though he had little interest in deciding it in either one way or the other, and then lead his hearers on by paths that they have not foreseen, until he brings them, unexpectedly perhaps, to the point which he wished them to reach. Such a plan requires skill, but is occasionally of no little value. The Introduction, then, either may or may not conclude with a clear statement of the plan of the speaker's argument."

**b. An illustration of the presentation of the three parts** of the introduction here under consideration is found in the

[1] See pp. 232, 234, on "inverted order."

[2] Alden, R. M., *The Art of Debate*, pp. 139, 140.

speech of David Dudley Field in the case of the United States *vs.* Cruikshank, 2 Otto. In this case Mr. Field's clients were indicted for acts declared to be criminal by the so-called Enforcement Act, passed by Congress in 1870. He is here trying to prove that this Enforcement Act is unconstitutional. He said:—

"Let us reduce and formulate the question, if we can, so as to separate the incidental from the essential, in order that our attention may be withdrawn from all other considerations than that of the one fundamental and permanent theory, upon which this legislation must stand, if it stands at all."

He then quoted and briefly explained the thirteenth, fourteenth, and fifteenth amendments to the Constitution. Continuing, he said:—

"Professing to act under the authority of these amendments, Congress has passed five acts, four only of which were in existence at the time of the indictment now under consideration: one called the Civil Rights Act, passed April 9, 1866; the second called the Enforcement Act, passed May 31, 1870; the third, amending this, passed February 28, 1871; and a fourth act, passed April 20, 1871."

He then quoted the terms of these acts and explained their provisions. Continuing:—

"By authority of this legislation ninety-seven persons were indicted together in the Circuit Court of the United States for the District of Louisiana, and three of them, the present defendants, were found guilty upon the first sixteen counts. The indictment was found under the 6th and 7th sections of the Enforcement Act, sixteen counts being for simple conspiracy under the 6th section, and the other sixteen being for conspiracy, with overt acts resulting in murder."

He then explained the sixteen counts on which his clients had been indicted. Continuing:—

"This indictment, or that portion of it upon which these defendants have been convicted, is supposed to be justified by the 6th section of the Enforcement Act, and that section is said to rest upon the late amendments. In considering the question, whether it is or is not supported by them, I assume, what cannot be disputed, that before the late amendments this section, and the same may be said of the other sections, would have been beyond the competency of Congress. The point of contention, therefore, is whether the amendments have conferred the power."

This last contains the statement of the issue of the case. It is to be observed how carefully, step by step, Mr. Field leads up to this statement, so that its accuracy is clearly and fully understood by the court. It only remains for him to complete his introduction by the statement of the partition. After a word of explanation, connecting the issue with the points of the partition, he finished as follows:—

"My argument, therefore, will consist of an endeavor to establish the following two propositions:

"I. The natural interpretation of the language of the new amendments does not justify the present legislation.

"II. If the natural interpretation did justify it, yet, as the language is susceptible of a different one, the latter must be preferred as that alone in which it was understood by the people."

**c. Two or more issues—parallel partition.** In the introduction given above, the circumstances of the case made it necessary to have the explanation of the question long and detailed, and—as is common in cases at law—the explanation took the form of a narration of events. Also the nature of the case made it possible to reduce the question to a *single* issue. This is not always possible. More often—as in most cases dealing with public policies—the issues are two or three in number.

It is to be noticed, in such cases, that the points of the partition may correspond exactly with the points of the issues. This is frequently desirable. It is a particularly clear method

because it makes the relation between the issues and the partition so evident. But it must be remembered that the two parts are not identical. The issues are merely a statement of the points on which the controvery *must turn*, and so are unprejudiced in nature; the partition, on the other hand, is the statement of the points the disputant means to establish in proving *his side* of the case. They are closely related, but not the same.

**d. The issues emphasized.** In the example given above, the issues are presented in the form of a bare statement. But often this is not sufficient. Usually, the critical point or points need to be emphasized, and so presented rhetorically, that they will be impressed on the attention and the memory of the audience. For example, Mr. Jeremiah Black, in his argument in the case of *Ex parte* Milligan, 4 Wall. 2, presented the issue of the case briefly and forcibly as follows:—

"The case before you presents but a single point, and that an exceedingly plain one. . . . Keeping the character of the charges in mind, let us come at once to the simple question upon which the court below divided in opinion: Had the commissioners jurisdiction—were they invested with legal authority to try the relaters and put them to death for the offence of which they were accused? We answer, no; and, therefore, the whole proceeding from beginning to end was utterly null and void. On the other hand, it is absolutely necessary for those who oppose us to assert, as they do assert, that the commissioners had complete legal jurisdiction both of the subject-matter and of the parties, so that their judgment upon the law and the facts is absolutely conclusive and binding, not subject to correction nor open to inquiry in any court whatever. Of these two opposite views, you must adopt one or the other; for there is no middle ground on which you can possibly stand."

**e. Excluding extraneous matter.** One very common method of presenting the issues (as well as an important step toward finding them) consists in excluding extraneous, irrelevant, or mutually admitted matter. It is the error of

confusing other kindred questions with the question really in hand that most often makes necessary a careful definition of the issues; and this confusion may very effectively be cleared away by explaining in the introduction what these kindred questions are, and just why they ought to be excluded from consideration. Burke, in his speech in the House of Commons on the Marriage Act, 1781, made clear the issue of the debate by excluding irrelevant matter. The bill in question provided that the power of marrying, without consent of parents, should not exist for persons under twenty-one years of age. Mr. Burke, in his introduction, said:—

"The question is not now, whether the law ought to acknowledge and protect such a state of life as minority, nor whether the continuance, which is fixed for that state, be not improperly prolonged in the law of England. Neither of these in general is questioned. The only question is, whether matrimony is to be taken out of the general rule, and whether the minors of both sexes, without the consent of their parents, ought to have a capacity of contracting the matrimonial, whilst they have not the capacity of contracting any other engagement." [1]

**B. Persuasion.** The function of conviction in the introduction is to prepare the minds of the audience for an understanding of the proof to be offered later in the argument. The function of persuasion is to prepare the way for "favorable attention," or more strongly, to create a "will to believe." The emotions of an audience need to be prepared no less than their intellect. A man's emotions cannot be wildly and roughly attacked any more than his reason; if the audience is antagonistic to the speaker or out of harmony with him, his emotional appeals will be unavailing. Consequently, before a speaker can control these moving impulses of his audience, he must establish with them close relations of sympathetic attention. He must bring them into close sympathy with himself so that whatever moves him may be

[1] *Burke's Speeches*, p. 402.

transmitted easily to them. Here, in the introduction, the speaker often first touches on that emotion which he wishes most to affect in his later efforts, and so prepares it for stronger appeals that are to come. Persuasion in the introduction is also a very valuable help in preparing for the work of conviction in the discussion. If an audience is inattentive or hostile to a speaker, much of his proof may pass by without effect; so, in order to make his audience listen and do justice to his demonstrations in the discussion, he must interest them in his cause, and create in them a *willingness to be convinced.* In general, then, persuasion in the introduction must bring the thought and feeling of the audience into working harmony with the speaker or writer.

The discussion of persuasion given in the last chapter will not be repeated here. Practically everything said there is *especially applicable* to persuasion in the introduction. Our purpose here is to make a few fundamental suggestions by way of emphasis and practical guidance, and give a few examples of introductory remarks. The persuasive work of the introduction is of utmost importance. A bad impression may prevent a fair hearing—may prevent any hearing at all. Every suggestion made in the last chapter should be taken particularly to heart when planning introductions.

**1. Calm, courteous, conversational.** In the first place, *whenever possible, start* with a reasonably calm, courteous, conversational mode, in both "composition and delivery." Even though the occasion will demand a great show of force before you are through, always repress it in the beginning, except in those rare instances (usually cases in which others have just spoken before you) in which such an emotional tension is reached that *the audience* as well as the speaker feels the demand for indignant protest, denunciation, or some form of recognition of the emotional demands of the moment. At such a time nothing is more disgusting than a cold, spineless, deliberate "don't get excited" attitude, which springs from either hypocrisy or inability to grasp the

significance of the things that have been said. "The pretence of indifference is no less insincere than the pretence of feeling." [1] Probably, however, more speakers make a poor first impression on account of a loud, insistent, false, hollow, emotional, "speechifying," opening than for any other one reason. A very good plan for a speaker who is to deliver a prepared speech, is to begin always with a few impromptu sentences, spoken directly to *the audience* before him, concerning something that fits the *particular occasion*,—such as a reference to remarks made by the chairman in introducing the speaker. It ought to be easy for anyone to utter such sentences *directly* in conversational mode, and once started, thus to continue without falling into indirectness. Being calm, courteous, and conversational does not mean necessarily being *too quiet*—or even being quiet at all. It is possible to speak very loudly, in a calm, courteous, conversational manner. Directness is the best of the conversational manner, and it is possible to be perfectly direct and as loud as need be.

**2. Do not detract from your theme.** For preparing introductions to different types of audiences, consider the fundamental principles of persuasion as given in the last chapter. The interest, attention, friendly support, of audiences may be won in various ways. The most important definite warning to be given is: *Do nothing to take interest and attention away from your theme.* Do not kill present interest by assuming that it does not exist and trying to create it in an artificial way. Do not think you have to be funny in order to get the attention of an intelligent audience. Many speakers who ought to know better permanently alienate audiences by acting on this offensive assumption.

Bradbury [2] gives some excellent advice. "The first few sentences which a speaker utters before an audience, receive more universal and closer attention than anything which he may thereafter say on that particular occasion, no matter

[1] Winans, p. 109.

[2] *The Structure of an Effective Public Speech*, Harry B. Bradbury, pp. 16–19.

how successful his oration may be. This is a psychological fact which is easy to explain. Curiosity is one of the predominant characteristics of practically everybody. . . . So when a new speaker is introduced and begins to talk, the dullest and least attentive person in the audience listens, out of sheer curiosity, to hear what this new speaker has to offer. This, then, is the very best opportunity the man on the platform will have to chain the attention of his audience to the subject which he has in mind. How foolish to waste such a golden opportunity. What unadulterated folly to throw away this wonderful chance by actually directing the attention of the audience to some topic away from the main one which the speaker wishes to press home and as to which he desires to have the audience accept and act upon his recommendation. How unwise, then, to start a serious subject with a funny story. Just to the extent that the story has succeeded, exactly to that extent has the attention of the audience been distracted from the serious matter in hand, and it has been made that much harder again to focus their attention on this matter. They will wait for further funny stories and unless they are forthcoming there is a mental resentment, which requires Herculean efforts and marked ability to overcome, to the extent of again directing intelligent attention to the serious questions under discussion. It is barely possible that the point of a funny story may contain the very essence of the serious argument and thus form a good introduction. But this rarely happens and the practice is dangerous.

"Then if the funny introductory effort fails! This is a calamity greater than the inexperienced can possibly understand. The golden opportunity of taking advantage of that fresh bloom of keen attention is withered and dead. More than that, the speaker must not overcome a feeling of resentment and disgust, before he can secure attention for the serious portions of his subject.

"Wit and humor have their places on the public platform,

even in serious speeches, but they must be used sparingly, and never in the form of a *digressive* funny story as part of the introductory sentences. The sole use of such anecdotes is to illustrate and make more forceful a serious argument."

**3. Strange or hostile audiences.** It sometimes happens that the speaker or writer is a stranger to those whom he addresses. Under such circumstances his first duty is to create some bond of fellow-feeling with his audience. Here *modesty* is clearly one indispensable quality. To this should be added, when possible, the bonds of some common *interest* or common emotion; again, an appeal may well be made for a charitable hearing and for *fair play*. Sometimes the audience is worse than a stranger; it may be an enemy. To handle an audience that is hostile at the outset, is the most difficult task with which an arguer is ever confronted. It calls for a rare combination of courage and patience, of modesty and self-confidence, of tact and determination. The emotions best appealed to under such conditions are commonly those of honesty, courtesy, or a desire for fair play. The skill needed on such an occasion is well illustrated in Beecher's Liverpool speech already discussed.[1] A similar plea, full of dignity, courage, and firm modesty, is found in the opening words of William Pinckney's speech in the Maryland Assembly, in 1788, in behalf of a petition for the relief of oppressed slaves:—

"Before I proceed to deliver my sentiments on the subject-matter of the report under consideration, I must entreat the members of this House to hear me with patience, and not to condemn what I may happen to advance in support of the opinion I have formed, until they shall have heard me out. I am conscious, sir, that upon this occasion, I have long-established principles to combat and deep-rooted prejudices to defeat; that I have fears and apprehensions to silence, which the acts of former legislatures have sanctioned, and that (what is equivalent to a host of difficulties) the popular impressions are against me. But if I am honored with

[1] See Ch. 11.

the same indulgent attention which the House has been pleased to afford me, on past subjects of deliberation, I do not despair of surmounting all these obstacles, in the common cause of justice, humanity, and policy." [1]

**4. Never lose temper.** If prejudice has been created by the appeals of a preceding speaker, these prejudices must, as far as possible, be mitigated in the introduction, for such an unfavorable attitude may nullify the effect of all proof or persuasion, as long as the vision of the audience is thus distorted. At such a time, the "retort courteous," ridicule, sarcasm, or even invective are good weapons of defense. Whatever weapon of reply is chosen, there is one precaution that must always be remembered: *the disputant must never permit himself to lose his temper in the smallest degree.* This temptation is sure to arise in the heat of any earnest discussion where persuasion plays any great part, and it is a temptation that must be always repressed, for ill temper in discussion hurts only him who uses it. There are few better models of personal retort in the history of oratory than can be found in Webster's famous Reply to Hayne, in the debate on the Foote Resolution. Another illustration of the great senator's power in personal debate is found in his reply to Calhoun on the 22d of March, 1838. Humor, sarcasm, and defiance are wielded with power, yet all is courteous and firmly dignified.

"Mr. President: I came rather late to the Senate this morning, and, happening to meet a friend on the Avenue, I was admonished to hasten my steps, as 'the war was to be carried into Africa,' and I was expected to be annihilated. I lost no time in following the advice, Sir, since it would be awkward for one to be annihilated without knowing anything about it.

"Well, Sir, the war has been carried into Africa. The honorable member has made an expedition into regions as remote from the subject of this debate as the orb of Jupiter from that of our earth.

[1] *Eloquence of the United States*, Vol. V, p. 92. E. and H. Clark.

He has spoken of the tariff, of slavery, and of the late war. Of all this I do not complain. On the contrary, if it be his pleasure to allude to all or any of these topics, for any purpose whatever, I am ready at all times to hear him.

"Sir, this carrying the war into Africa, which has become so common a phrase among us, is, indeed, imitating a great example; but it is an example which is not always followed with success. In the first place, every man, though he be a man of talent and genius, is not a Scipio; and in the next place, as I recollect this part of Roman and Carthaginian history,—the gentleman may be more accurate, but as I recollect it, when Scipio resolved upon carrying the war into Africa, Hannibal was not at home. Now, Sir, I am very little like Hannibal, but I am at home; and when Scipio Africanus South Caroliniensis brings the war into my territories, I shall not leave their defence to Asdrubal, nor Syphax, nor anybody else. I meet him on the shore, at his landing, and propose but one contest.

"Concurritur; horæ
Momento cita mors venit, aut victoria læta." [1]

**5. Inattentive audience.** A hostile audience is less common than an inattentive one. It is well-nigh impossible to convince an audience whose minds are wandering away from the subject or who are carelessly half-listening. At the very beginning, if any such danger is present,—and it is unfortunately a common danger,—the attention of the audience must be roused and centred on the topic of the hour. For this reason, probably the most common of all forms of persuasive introduction is that which *emphasizes the importance of the question in discussion.* There are many ways of arousing interest in an audience. It may be shown that the question is (a) of great *inherent* importance; that it is of a peculiar significance because of its (b) relation to *current events* and conditions; that it is (c) one of the growing problems of *the future;* or, perhaps, (d) that it has some especially close bearing on the interests of *the particular audience.* A good example is

[1] *The Works of Daniel Webster,* Vol. IV, p. 500.

found in the introduction of Charles James Fox to one of his speeches on the East India Bill:—

"I did not intend, Sir, to have said anything in addition to that which has been already urged so ably in favor of the resolution now agitated. In my own opinion, its propriety and necessity are completely and substantially established. A few particulars, suggested in the course of the debate by gentlemen on the other side of the House, may be thought, however, to merit some animadversion. And, once for all, let no man complain of strong language. Things are now arrived at such a crisis as renders it impossible to speak without warmth. Delicacy and reserve are criminal where the interests of Englishmen are at hazard. . . .

"This, at least, has made such an impression on my mind that I never felt so much anxiety; I never addressed this House under such a pressure of impending mischief; I never trembled so much for public liberty as I now do. The question before the House involves the rights of Parliament in all their consequences and extent. These rights are the basis of our Constitution, and form the spirit of whatever discriminates the government of a free country. And have not these been threatened and assaulted?" [1]

In Burke's masterful introduction to his speech on "Conciliation with America," all of the four ways just mentioned (for emphasizing the importance of a question) are skillfully used. Consider the following, his last paragraph before stating his proposition:—

"To restore order and repose to an empire so great and so distracted as ours, is, merely in the attempt, an undertaking that would ennoble the flights of the highest genius, and obtain pardon for the efforts of the meanest understanding. Struggling a good while with these thoughts, by degrees I felt myself more firm. I derived, at length, some confidence from what in other circumstances usually produces timidity. I grew less anxious, even from the idea of my own insignificance. For, judging of what you are by what you ought to be, I persuaded myself that you would not reject a reasonable proposition because it had nothing but its reason

[1] *The World's Orators* (England), pp. 317, 318.

to recommend it. On the other hand, being totally destitute of all shadow of influence, natural or adventitious, I was very sure that, if my proposition were futile or dangerous, if it were weakly conceived or improperly timed, there was nothing exterior to it, of power to awe, dazzle, or delude you. You will see it just as it is, and you will treat it just as it deserves." [1]

## EXERCISE. CHAPTER 12

### INTRODUCTION

1. Write a complete introduction, following the suggestions of this chapter for each of the three speeches on the campus topic, mentioned in the chapter on Briefing and Outlining.
2. Chose a proposition on which men divide with very strong prejudice, and write an introduction on the same side of your proposition for each of two different audiences, one of which shall be strongly prejudiced in your favor, and the other strongly prejudiced against you.
3. Hand in a complete introduction to your original forensic.

[1] *Burke's Speech on Conciliation with America*, edited by Albert S. Cook. pp. 6, 7.

## CHAPTER 13

### THE DISCUSSION

### OUTLINE

A. The principles of composition in the discussion.
B. Relation of discussion to brief.
C. Variety in the discussion.
    1. The forms of support.
        a. Restatement.
        b. General illustrations.
        c. Specific instance.
        d. Testimony.
        e. Reasoning.
D. Showing relations in the discussion.
E. Methods of emphasis in the discussion.
    1. Digression.
    2. Iteration.
    3. Rhetorical question.
F. Unity and coherence in the discussion.
    1. Three aids.
        a. Transitions.
        b. Summaries.
        c. Partitions.
    2. Combined summary and partition.

**A. Principles of composition in the discussion.** The work of presenting the proof in the discussion, is largely a matter of applying the principles of composition to the materials already in hand. If the proofs have been well selected and arranged, to make them accomplish their purpose requires only the use of words that will effectively convey them to the minds of others. So that the next requisite for forceful presentation is a working knowledge of rhetoric in general.

**B. Relation of the discussion to the brief.** Perhaps the most important question to be dealt with in planning the discussion is the question of the proper relation of the finished composition to the brief. How closely shall the brief be followed in the final presentation? Shall the exact words of the brief be repeated? In answering this question there are *two extremes that are generally* to be avoided. On the one hand, rhetorical embellishment may destroy all the advantage gained by a good arrangement. On the other hand, the bare bones of the brief may be exposed so rudely as to be offensive. Of these two faults the beginner undoubtedly tends toward the latter; he does not take pains enough to make his dish enticing or even palatable. The speech or the finished composition is too often a mere repetition of heads and subheads, with the addition of a few conjunctions and a trite phrase here and there. This defect, while far more pardonable than that of the speaker who talks at random and buries what little he has to say in the confusion of vague and formless rhetoric, should be very carefully guarded against, because it is much more likely to occur. There is little danger that after a student has prepared a good brief he will fall back on formless rhetoric in the discussion. In presenting an argument to an audience, the great thing for the author of a good brief to guard against is slavery to the brief. Adapt the discussion to the audience. Feel free to change the order of points,[1] to leave out part of the proof that is not required for a particular audience, and in every way possible suit the proof to the audience according to all the principles discussed in chapter 11. (See also discussion of persuasion and *audience* in chapter 6.) If the brief has been really well done, the discussion cannot be very *bad* unless the speaker fail miserably in persuasion, either positive or negative.

**C. Variety in the discussion.** One of the rhetorical elements most commonly lacking, and most needed in the

[1] See Rule 5 for brief drawing, chapter 10, and discussion of direct or inverted order, chapter 12.

*discussion*, is *variety*. It is sometimes assumed that less variety in presentation is desirable in argumentation than in most of the other forms of composition or oratory. It is said that in a story or in a demonstrative oration,[1] since the purpose of the writer or speaker is to please, variety is indispensable; but that in argumentation, since the appeal is only to the reason, variety is superfluous. This is fundamentally wrong. The appeal in argumentation is not simply to the reason. Argumentation that amounts to anything (except in very rare cases, such as we find in mathematics) is concerned with both conviction and persuasion. All the relief, refreshment, pleasure, interest, and attention that will result from *variety* in presentation cannot but help your case with *any* audience. The point to be remembered here is that in argument we must strive deliberately to get variety. In other forms of address there may be sufficient variety in the very subject-matter to give it interest; but in most elaborate arguments, the natural coldness of logic needs to be dressed more attractively to hold *attention*. It is easy, in presenting proof after proof, to fall into some formula of statement or some "stereotyped" method of arrangement. This habit should be carefully avoided, and variety in word, phrase, and manner should be sought from the beginning.

**1. The forms of support.** Some excellent suggestions that will be helpful in gaining variety and avoiding stereotyped methods of presenting argument will be found in Phillips' *Effective Speaking*, particularly his discussion of the four forms of support, Chapters VIII to XVI, inclusive. We quote two of his keynote paragraphs:

"*Assertions May Demand Support.* We make assertions desiring some result. We wish the listener to see our idea clearly, or to feel it, or to believe it, to act upon it, or to find pleasure in it. Or we may seek some combination of these Ends. If the utterance of the assertion alone attains our

[1] "The purpose of demonstrative oratory is 'to charm the senses with words that are fit and adequate.'" Ringwalt, p. 24.

desired End further remark is a waste of time and energy. If, however, the assertion does not achieve its purpose then, as shown in preceding chapters, it must have support—Cumulation. As experience attests that few assertions, isolated, are effective, *the main business of the speaker is the supporting of assertions*, and his great concern is how to support them so as to achieve the desired End with the least expenditure of time and effort.

"*The Four Forms of Support.* If now, we examine the characteristics of the matter used to support assertions (Cumulation) we find that it consists of four kinds. These may be named (a) Restatement, (b) General Illustration, (c) Specific Instance, (d) Testimony. Thus, we may say (Assertion), 'Greece had great men,' and continue, 'She had master minds.' This is Restatement. We have said the same thing over again in different words. We go on, 'She had orators, philosophers, poets.' This is a General Illustration. We have supported the assertion by presenting some of its general features. We proceed, 'She had Demosthenes, Æschines, Aristotle, Plato, Homer, Sophocles.' This is Specific Instance. We have strengthened our original assertion by actual cases. Finally, we say, 'Macaulay says: "Her intellectual empire is imperishable."' This is Testimony. We have supported our assertion by corroboration." [1] (e) Reasoning may well be added to Phillips' classification of the forms of support. If a speaker points out certain evidence from which it must be inferred that Greece had great men he is supporting his assertion in a way not covered by any of the four forms mentioned. This fifth form is, of course, very commonly used in argumentation.

**D. Showing relations in the discussion.** In order to convince, it is not sufficient that the materials of the proof be well arranged in the mind of the speaker; the *arrangement must be made clear to the audience.* Variety and smoothness do not require that the relative importance of the points of

[1] Phillips, pp. 88, 89.

the brief, or their connection with one another, be obscured. In fact, in spoken discourse, even more care needs to be taken in the final presentation than in the brief itself, to make clear the importance and the mutual relation of the points. *In the brief*, the *indenting* of the headings and subheadings and the use of the *symbols*, *show to the eye* how the evidence and arguments are related to one another and to the whole question, and distinguish between the important and the incidental parts. But *in spoken and in full manuscript presentation*, where there are not headings or subheadings, *these relations must be made evident by words;* the large and vital facts must be enforced by repetition, by illustration, by direct explanation of their significance, or by some other of the many possible methods of emphasis; the relation of one piece of evidence to another must be fully explained, and the purpose and effect of various arguments must be made evident to the reader or hearer.

**E. Methods of emphasis in the discussion. 1. Digression.** Three methods of bringing out the importance of certain material which are particularly useful in presenting arguments, may well be mentioned and illustrated. The first such method of gaining emphasis is by *digressing* in the middle of an argument *to explain the significance of a piece of evidence.* The following selection is taken from the speech by William C. Plunkett in the case of Rex *vs.* Forbes and others. The defendants were on trial for participation in a riot. They were charged with hurling bottles and other missiles at the Lord-lieutenant of Ireland in a public theater.

"When I state that a bottle was thrown at the king's representative, and that implements of violence were flung at his person, such is the state of the public mind that it is listened to as if it were a mere bagatelle, a *jeu d'esprit*, a trifle of which the Lord Lieutenant need not take any notice, and which is below the attention of the government and the law officers. Why, gentlemen of the jury, are we awake? Can we be insensible to the effect of such occurrences upon the honor and safety of the country? Can we reflect,

without indignation, that such an outrage should be committed in a civilized country against the person of his majesty's representative, because he had the presumption, in opposition to a desperate gang, to execute the parting injunctions of the king in a manner not calculated to give offence or excite animosity?" [1]

**2. Iteration.** The persistent repetition of a word or phrase, may also be forcibly used to impress an idea on a reader's memory. This device is well illustrated in the following passage from Matthew Arnold:—

"The practical genius of our people could not but urge irresistibly to the production of a real prose style, because for the purposes of modern life the old English prose, the prose of Milton and Taylor, is cumbersome, unavailable, impossible. A style of regularity, uniformity, precision, balance, was wanted. These are the qualities of a serviceable prose style. Poetry was a different *logic*, as Coleridge said, from prose. But there is no doubt that a style of regularity, uniformity, precision, balance, will acquire a yet stronger hold upon the mind of a nation if it is adopted in poetry as well as in prose, and so comes to govern both. This is what happened in France. To the practical, modern, and social genius of the French a true prose was indispensable. They produced one of conspicuous excellence, supremely powerful and influential in the last century, the first to come and standing at first alone, a modern prose. French prose is marked in the highest degree by the qualities of regularity, uniformity, precision, balance. With little opposition from any deep-seated and imperious poetic instincts, the French made their poetry also conform to the law which was moulding their prose. French poetry became marked with the qualities of regularity, uniformity, precision, balance. . . . Our literature required a prose which conformed to the true law of prose; and that it might acquire this the more surely, it compelled poetry, as in France, to conform itself to the law of prose likewise. . . . Poetry, or rather the use of verse, entered in a remarkable degree, during the (eighteenth) century, into the whole of the daily life of the civilized classes; and the poetry of the century was a perpetual school of the

[1] *Great Speeches by Great Lawyers*, p. 638.

qualities requisite for a good prose, qualities of regularity, uniformity, precision, balance." [1]

**3. Rhetorical question.** There are few methods of making a vivid impression on the attention and memory of an audience, more forcible than the use of the so-called rhetorical question. The rhetorical question is one in which the answer is implied in the form and delivery of the question; as, for example, "Is the United States a republic or a despotism?" The value of this device lies largely in the effect of variety and incisiveness which it imparts and the *dire tness* it assists in attaining. For what is probably the most perfect and elaborate use of the rhetorical question to be found in American oratory see Carl Schurz's great speech on "General Amnesty," [2] delivered in the United States Senate, January 30, 1872. The following illustration is from Webster's speech in the case of Ogden *vs.* Saunders:—

"We come before the court alleging the law to be void and unconstitutional; they stop the inquiry by opposing to us the law itself. Is this logical? . . . Is it not obvious, that, supposing the act of New York to be a part of the contract, the question still remains as undecided as ever. What is that act? Is it a law, or is it a nullity? a thing of force, or a thing of no force? Suppose the parties to have contemplated this act, what did they contemplate? its words only, or its legal effect? its words, or the force which the Constitution of the United States allows to it? If the parties contemplated any law, they contemplated all the law that bore on their contract, the aggregate of all the statute and constitutional provisions." [3]

**F. Unity and coherence in the discussion.** In addition to the suggestions for gaining variety and emphasis, in the discussion it is well to say a word about the special necessity

[1] Genung, *The Working Principles of Rhetoric*, p. 304.

[2] To be found in many collections. See Ringwalt's *Modern American Oratory*, pp. 93–130. Or Baker's *Forms of Public Address*, p. 353.

[3] The *Works of Daniel Webster*, Vol. VI, p. 30.

for coherence and unity in this part of our argument. Emphasis puts stress upon the significant points of the proof. However, as we have already seen, to be convincing, a speaker or writer must make his audience or readers accept, not this point or that, but his *whole case*. In order thus to establish the proposition as a whole, in presenting the proof the different elements must be firmly bound together in one. Someone has said that there is "more force in a stone than in a handful of sand." See to it that your case is a stone—a "pudding-stone" perhaps, but still a single stone capable of being thrown at an enemy with some accuracy and force, or of being used to block his advance with some effect. The introduction and the conclusion are of great service in gaining this unity; but it is dangerous to leave this work entirely to these external aids. There must be coherence and unity within the proof, as well as ropes and bands without. To depend for unity entirely upon the partition at the beginning and the summary at the end, is likely to make it seem artificial and forced; to gain an effect that is natural and convincing, the unity must be made evident in the proof itself.

**1. Three valuable aids in getting unity and coherence in the proof itself,** are: (a) *transitions*, (b) *summaries*, (c) *partitions*. It is not true that these devices are desirable in every piece of argumentation. Often the proofs are of such a nature, their connection with one another is so obvious, that summaries and partitions within the proof are unnecessary; sometimes these devices are positively undesirable, because they give an air of exactness and formality that is inappropriate. The practice of such methods may easily be carried to an extreme; but the common danger is that of deficiency rather than of excess.

**a. Transition.** A speaker leading an audience along new paths, needs to keep in close touch with them, lest they lose the way and become confused. By the use of transitional phrases, sentences, and paragraphs he holds them always under a firm control, and is enabled to guide them carefully,

so that the way is constantly opening ahead at each step. John Ward, in his *System of Oratory*, explains a transition as follows:—

"*A transition*, therefore, is *a form of speech by which the speaker in a few words tells his hearers both what he has said already and what he next designs to say.* Where a discourse consists of several parts this is often very proper in passing from one to another, especially when the parts are of a considerable length; for it assists the hearers to carry the series of the discourse in their mind, which is a great advantage to the memory. It is likewise a great relief to the attention to be told when an argument is finished and what is to be expected next." [1]

Mr. Ward also gives an excellent illustration of the use of the simple transition:—

"Cicero, as I have had occasion to observe formerly, divides his *oration for the Manilian law* into three parts, and proposes to speak, *first of the nature of the war against King Mithridates, then of its greatness, and lastly of the choice of a general.* And when he has gone thro' the first head, which is pretty long, he connects it with the second, by this short transition: *Having shown the nature of the war, I shall now speak a few things of its greatness.* And again, at the conclusion of his second head, he reminds his hearers of his method in the following manner: *I think I have sufficiently shewn the necessity of this war from the nature of it, and the danger of it from its greatness. What remains is to speak concerning the choice of a general, proper to be intrusted with it.*" [2]

**b. Summary.** The use of the summaries within the discussion contributes to unity and coherence, by gathering together proofs that are closely associated, and relating them clearly to the whole proposition. They bring the materials thus summarized into one single strong point, instead of a number of scattered and incomplete points. Also the sum-

[1] John Ward, *A System of Oratory*, Vol. I, p. 290.
[2] Ibid., Vol. I, p. 291.

mary contributes to clearness, by closing up the division of the proof that is completed, and making it evident that a new line of argument is to be undertaken. Finally, these occasional summaries help greatly in making intelligible the final summary in the conclusion.

In the report of the Civil Service Commission of 1871, is an excellent example of the short, simple, and direct style of summary that is most effective for use within the proof itself:—

"These are some of the serious and threatening evils of the present practice of treating the inferior posts of administration as party prizes. It exasperates party spirit and perverts the election. It tends to fill the public service with incapacity and corruption, destroying its reputation and repelling good men. It entices Congress to desert the duties to which it is especially designated by the Constitution, and tempts the Executive to perilous intrigue." [1]

The writer then takes up a new line of argument (refutation) with the following introductory sentence:—

"The arguments by which the present pernicious practice is justified seem to us wholly unsound." [1]

**c. Partition.** Internal partitions perform much the same office as the external partition of the introduction. They *turn the attention in the desired direction* and *explain what will be done next*, so that the audience can follow the line of thought that is to come. Webster showed his mastery of the art of being clear by his frequent use of this kind of partition. No better model can be found than the following, taken from his speech before the Supreme Court in the case of Luther *vs.* Borden *et al.*:—

"Having thus, may it please your honors, attempted to state the questions as they arise, and having referred to what has taken

[1] George William Curtis, *Orations and Addresses*, Vol. II, p. 43.

place in Rhode Island, I shall present what further I have to say in three propositions:—

"1. I say, first, that the matters offered to be proved by the plaintiff in the court below are not of judicial cognizance; and proof of them, therefore, was properly rejected by the court.

"2. If all these matters could be, and had been, legally proved, they would have constituted no defence, because they show nothing but an *illegal* attempt to overthrow the government of Rhode Island.

"3. No proof was offered by the plaintiff to show that, in fact, another government had gone into operation, by which the Charter government had become displaced." [1]

**2. The summary and partition are very effective in combination;** the summary showing what has been done, and the partition what remains to be done, establish beyond a doubt the unity of the demonstration, and give to the readers a clear understanding of what is being accomplished. This combination should, however, be used with judgment, for it is the most formal of all the methods of transition. It is most properly used where the proof is very long, and where the quality most to be sought for is that of logical perfection. For example, it is most appropriate in such an effort as that of Webster before the Supreme Court in the case of Gibbons *vs.* Ogden:—

"I contend, therefore, in conclusion on this point, that the power of Congress over these high branches of commercial regulation is shown to be exclusive, by considering what was wished and intended to be done, when the convention for forming the Constitution was called; by what was understood, in the State conventions, to have been accomplished by the instrument; by the prohibitions on the States, and the express exception relative to inspection laws; by the nature of the power itself; by the terms used, as connected with the nature of the power; by the subsequent understanding and practice, both of Congress and the States; by the grant of exclusive admiralty jurisdiction to the federal government; by the

[1] *The Works of Daniel Webster*, Vol. VI, p. 236.

manifest danger of the opposite doctrine, and the ruinous consequences to which it directly leads. . . . But I contend, in the second place, that whether the grant were to be regarded as wholly void or not, it must, at least, be inoperative, when the rights claimed under it come in collision with other rights, enjoyed and secured under the laws of the United States; and such collision, I maintain, clearly exists in this case." [1]

## EXERCISE. CHAPTER 13

### THE DISCUSSION

1. Hand in complete discussion of one of the speeches mentioned in Exercise 1 of the last chapter.
2. Write a complete discussion for the favorable audience mentioned in Exercise 2 of the last chapter.
3. Write a complete discussion for the hostile audience mentioned in Exercise 2 of the last chapter.
4. Hand in the complete discussion for your original forensic.

[1] *The Works of Daniel Webster*, Vol. VI, pp. 18, 19.

# CHAPTER 14

## THE CONCLUSION

### OUTLINE

I. The purpose of the conclusion.
  A. Conviction.
    1. Summarize.
      a. Variety.
        (I) Formal.
        (II) Informal.
        (III) Sometimes persuasive.
    2. Amplify and diminish.
  B. Persuasion.
    1. Well disposed toward speaker or writer.
    2. Final stirring of favorable emotions.

**I. The purpose of the conclusion.** Twenty-two centuries ago Aristotle [1] said that the object of the epilogue or conclusion was four-fold: (1) to conciliate the audience in favor of the speaker and to excite them against his adversary; (2) to amplify and diminish; (3) to rouse the emotions; and (4) to recapitulate. Time has not changed the truth of his statement; these are to-day the offices of the conclusion. Clearly, two of these are primarily concerned with conviction and two with persuasion. To recapitulate and to "amplify and diminish" are desirable, in order to make complete the intellectual approach; to gain sympathy and to rouse the feelings are desirable, in order successfully to make the emotional approach.

**A. Conviction. 1. Summarize.** In argumentation the first object of the conclusion is to recapitulate or summarize. The concluding summary is generally necessary in order to

[1] *Rhetoric.* Jebb Translation, p. 198.

make the proof clear and forcible. In the first place the points made in the discussion must finally be gathered together into a single point in order to convince the audience of the strength of the demonstration as a whole; again, the various points must be repeated and emphasized, in order to impress them on the memory of the audience.

a. **The summary may take a variety of forms,** with varying degrees of length and formality. In nearly all student argumentation the summary needs to be careful and detailed; the main heads of the proof must be repeated, and usually many of the subordinate points of the evidence. Rhetorically, the summary may take the form of a plain recapitulation, or it may be amplified by explanation and enforcement.

(I) **Formal.** Gardiner [1] has a suggestive paragraph favoring *short, decisive conclusions*—a type that might well be used except when there is a *definite reason* for using another kind.

One of the best examples of a *simple recapitulation* is found in the conclusion of Webster's speech in the case of Ogden *vs.* Saunders:—

"To recapitulate what has been said, we maintain, first, that the Constitution, by its grants to Congress and its prohibitions on the states, has sought to establish one uniform standard of value, or medium of payment. Second, that, by like means, it has endeavored to provide for one uniform mode of discharging debts, when they are to be discharged without payment. Third, that these objects are connected, and that the first loses much of its importance, if the last, also, be not accomplished. Fourth, that, reading the grant to Congress, and the prohibition on the States together, the inference is strong that the Constitution intended to confer an exclusive power to pass bankrupt laws on Congress. Fifth, that the prohibition in the tenth section reaches to all contracts, existing or future, in the same way that the other prohibition, in the same section, extends to all debts, existing or

[1] *The Making of Arguments*, p. 187.

future. Sixth, that, upon any other construction, one great political object of the Constitution will fail of its accomplishment." [1]

(II) **Informal.** *Usually,* however, the summary is *less formal* than the above in its phrasing, and *less abrupt* in its ending. The more common style is such as that in Burke's speech, on a bill for shortening the duration of Parliaments:—

"Thus, in my opinion, the shortness of a triennial sitting would have the following ill effects: it would make the member more shamelessly and shockingly corrupt, it would increase his dependence on those who could best support him at his election, it would wrack and tear to pieces the fortunes of those who stood upon their own fortunes and their private interest; it would make the electors infinitely more venal, and it would make the whole body of the people who are, whether they have votes or not, concerned in elections, more lawless, more idle, more debauched; it would utterly destroy the sobriety, the industry, the integrity, the simplicity of all the people, and undermine, I am much afraid, the deepest and best laid foundations of the commonwealth." [2]

(III) **Sometimes largely persuasive.** While discussing summaries, it may be well to observe that *under certain circumstances formal recapitulations may be largely persuasive.* It is of course rarely, if ever, true that a great argument closes with a recapitulation that is mainly persuasive. The conclusion of Wendell Phillips' speech on Daniel O'Connell is a persuasive summary:

"For thirty restless and turbulent years he stood in front of them, and said, 'Remember, he that commits a crime helps the enemy.' And during that long and fearful struggle, I do not remember one of his followers ever being convicted of a political offense, and during this period crimes of violence were very rare. There is no such record in our history. Neither in classic nor in modern times can the man be produced who held a million of people

[1] *The Works of Daniel Webster,* Vol. VI, p. 40.
[2] *The Speeches of Edmund Burke,* p. 400.

in his right hand so passive. It was due to the consistency and unity of a character that had hardly a flaw. I do not forget your soldiers, orators, or poets—any of your leaders. But when I consider O'Connell's personal disinterestedness,—his rare, brave fidelity to every cause his principles covered, no matter how unpopular, or how embarrassing to his main purpose,—that clear far-reaching vision, and true heart which, on most moral and political questions, set him so much ahead of his times; his eloquence, almost equally effective in the courts, in the senate, and before the masses; that sagacity which set at naught the malignant vigilance of the whole imperial bar, watching thirty years for a misstep; when I remember that he invented his vast success, bearing in mind its nature; when I see the sobriety and moderation with which he used his measureless power, and the lofty, generous purpose of his whole life,—I am ready to affirm that he was, all things considered, the greatest man the Irish race ever produced." [1]

2. **"Amplify and diminish"** is the name given to the practice of magnifying the importance of certain points in the discussion, and belittling the importance of others. In doing this, a disputant may diminish certain of his own proofs and amplify certain others, his purpose being to bring out the force of the greater points, by contrast with the lesser. But usually, the practice consists in diminishing, not one's own proof, but the proof of an opponent. In such a case, its effectiveness consists in the direct contrasting of the argnments on the opposite sides. The decision of any question is determined by a comparison, in the minds of those addressed, of the relative weight of the proofs of the two arguers, so that a disputant may help his cause just as truly, by diminishing the weight of the proof against him, as by adding to that of his own. In almost any question, there are usually some phases of it that are favorable to one side, and others that are favorable to the other side; on certain points, the facts support the affirmative, on others, they support the negative. So, the beliefs of the audience or readers about the

[1] Ringwalt, *Modern American Oratory*, pp. 218, 219.

proposition, as a whole, will be determined largely by their opinions as to which phase, or what points, are really important. Clearly, then, it would be the policy of the affirmative to persuade the audience that the points established in favor of the proposition were of more importance than the points established against it. In this way the affirmative could weaken its opponents, by belittling the significance of the points they had proved and magnifying the significance of its own points, just as surely as it could by a direct attack upon their arguments or evidence. This is one of the most common kinds of amplifying and diminishing. It may, however, take various forms; it may consist in a contrasting of the *results of two opposite policies*, a contrasting of *the evidence of the two sides*, or a contrasting of *the motives of the two parties;* but in all these the purpose is the same, viz.; to compare the two proofs as a whole, and show the preponderance of the one over the other. In student debates, where both the materials of the discussion and the time are narrowly limited, so that the conflict of the opposing proofs is peculiarly direct, to amplify and diminish is especially effective.

Mr. Evarts, in his argument in the case of the Savannah Privateers, uses this artifice, diminishing the case of the defense and amplifying his own case in prosecution:—

"And now, here is your duty, here your post of fidelity, not against law, not against the least right under the law, but to sustain, by whatever sacrifice there may be of sentiment or of feeling, the law and the Constitution. I need not say to you, gentlemen, that if, on a state of facts which admits no diversity of opinion, with these opposite forces arrayed, as they now are, before you—the Constitution of the United States, the laws of the United States, the commission of this learned court, derived from the government of the United States, the venire and impanelling of this jury, made under the laws and by the authority of the United States, on our side; met, on their side, by nothing on behalf of the prisoners, but the commission, the power, the right, the authority of the rebel government, proceeding from Jefferson Davis—you are asked by

the law, or under the law, or against the law, in some form, to recognize this power, and thus to say that the vigor, the judgment, the sense, and the duty of a jury, to confine themselves to their responsibility on the facts of the case, are worthless and yielding before impressions of a discursive and loose and general nature. Be sure of it, gentlemen, that, on what I suppose to be the facts concerning this particular transaction, a verdict of acquittal is nothing but a determination that our government and its authority, in the premises of this trial, for the purposes of your verdict, are met and overthrown by the protection thrown around the prisoners by the government of the Confederate States of America, actual or incipient." [1]

**B. Persuasion. 1. Well disposed toward speaker or writer.** The necessity of an appeal for sympathy,[2] in the conclusion, is too obvious to need explanation. When the speech is over, or the essay is finished, the time has come for the hearer or reader to act or deliberate on action; he must, then, be *favorably disposed in his feelings toward the speaker or writer, in order to give his side a fair and favorable consideration.* All the labors of persuasion, in the introduction and in the discussion, may be lost, if the emotions aroused there are allowed to lapse at the end. The sympathy for the speaker and his subject, which has already been stirred, must be left active in the minds of the audience, when he at length submits his case to their hands for judgment.

The conclusion reaps the harvest of sympathy, sowed in the earlier parts of the argument. Aristotle suggests that this last effort of persuasion may be an appeal by the speaker for favor for himself and his cause, or it may be an attack on the character or cause of an opponent. A good use of these methods, in combination, is found in the argument of Sergeant Prentiss in defense of Edward C. Wilkinson, who was on trial for murder. In the beginning of the selection he directly attacks the instigator of the trial, and later, the chief

[1] *Great Speeches by Great Lawyers*, p. 420.

[2] See discussion of persuasion in chapter 11.

witnesses for the prosecution, closing with a brief appeal for sympathy for himself:—

"But there is a murderer; and, strange to say, his name appears upon the indictment, not as a criminal, but as a prosecutor. His garments are wet with the blood of those upon whose deaths you hold this solemn inquest. Yonder he sits, allaying for a moment the hunger of that fierce vulture, conscience, by casting before it the food of pretended regret, and false but apparent eagerness for justice. He hopes to appease the manes of his slaughtered victims—victims to his falsehood and treachery—by sacrificing upon their graves a hecatomb of innocent men. By base misrepresentations of the conduct of the defendants, he induced his imprudent friends to attempt a vindication of his pretended wrongs by violence and bloodshed. . . .

"Upon his head rests not only all the blood shed in this unfortunate strife, but also the soul-killing crime of perjury; for, surely as he lives, did the words of craft and falsehood fall from his lips, ere they hardly loosened from the Holy Volume. But I dismiss him, and do consign him to the furies—trusting, in all charity, that the terrible punishment he must suffer from the scorpion lash of a guilty conscience will be considered in his last account.

"Johnson and Oldham, too, are murderers at heart. But I shall make to them no appeal. There is no chord in their bosoms which can render back music to the touch of feeling. They have both perjured themselves. The former cut up the truth as coolly as if he had been carving meat in his own stall. The latter, on the contrary, was no longer the bold and hot-blooded knight, but the shrinking pale-faced witness. Cowering beneath your stern and indignant gaze, marked you not how 'his coward lip did from its colors fly'; and how his quailing eye sought from floor to rafter protection from each honest glance. . . .

"Gentlemen of the jury:—I shall detain you no longer. . . . I had hoped, when the evidence was closed, that the commonwealth's attorney might have found it in accordance with his duty and his feelings to have entered at once a *nolle prosequi*. Could the genius of 'Old Kentucky' have spoken, such would have been her mandate. Blushing with shame at the inhospitable conduct of a portion of her sons, she would have hastened to make reparation.

"Gentlemen: Let her sentiments be spoken by you. Let your verdict take character from the noble State which you in part represent. Without leaving your box, announce to the world that here the defence of one's own person is no crime, and that the protection of a brother's life is the subject of approbation rather than of punishment.

"Gentlemen of the Jury: I return you my most profound and sincere thanks for the kindness with which you have listened to me, a stranger, pleading the cause of strangers. Your generous and indulgent treatment I shall ever remember with the most grateful emotions. In full confidence that you, by your sense of humanity and justice, will supply the many defects in my feeble advocacy, I now resign into your hands the fate of my clients. As you shall do unto them, so, under like circumstances, may it be done unto you." [1]

**2. Final stirring of favorable emotions.** But gaining sympathy for one's self is not the whole of persuasion. The emotions, which, as we have seen, are the mainsprings of action, must be given a final stimulus. It is, however, not safe to leave all appeal to the emotions to be made in the conclusion; the feelings must be stirred in the introduction, and kept constantly active through all the discussion. But there the work of persuasion is only begun; in order to bring the emotions finally into play, they must be wrought to the highest pitch of all at the close, and directed to the desired end. Consequently, in any great oration, it is in the peroration that we find the most impassioned eloquence; it is here that the orator spends his powers freely in the final appeal. The conclusion must complete, and give carrying force to the work of persuasion, as it does to the work of conviction.

The emotions are so many, and the possible ways of stirring them so varied, that examples are not, perhaps, of great value. To gain such power requires a study of the whole field of the persuasive art—a study of human nature, a study of audiences, a study of the world's oratory. Finally, to

[1] *Great Speeches by Great Lawyers*, pp. 121–123.

develop the fruits of study into real power, demands, in the words of Demosthenes, "Practice! practice! practice!"

To choose examples of persuasion in the conclusion, involves discrimination among many of the most brilliant passages in the world's oratory. The following, from the speech by Grattan on the "Declaration of Irish Right," is not given as, in any sense, the best; it is simply an excellent illustration of one kind:—

"I might, as a constituent, come to your bar and demand my liberty. I do call upon you by the laws of the land, and their violation; by the instruction of eighteen centuries; by the arms, inspiration, and providence of the present movement—tell us the rule by which we shall go; assert the law of Ireland; declare the liberty of the land! I will not be answered by a public lie, in the shape of an amendment; nor, speaking for the subject's freedom, am I to hear of faction. I wish for nothing but to breathe in this our island, in common with my fellow-subjects, the air of liberty. I have no ambition, unless it be to break your chains and contemplate your glory. I never shall be satisfied so long as the meanest cottager in Ireland has a link of the British chain clanking to his rags. He may be naked, he shall not be in irons. And I do see the time at hand; the spirit has gone forth; the declaration of right is planted, and though great men should fall off, the cause will live; and though he who utters this should die, yet the immortal fire shall outlast the organ that conveys it, and the breath of liberty, like the word of the holy man, will not die with the prophet, but survive him." [1]

An emotional conclusion of a very different sort was that used by Phillips Brooks in his speech in behalf of the Children's Aid Society.

"I sometimes think how it would be if multitude were taken away and we saw in its simplicity that which often loses itself in the large variety in which it is manifested to us. Suppose there were but one needy child in all the world. Suppose every child from China to Peru were wrapped in the soft care and tender luxury

[1] Hardwicke, *History of Oratory and Orators*, p. 138.

which belong to children in their parents' arms. Suppose every babe were cooing itself to rest in its mother's embrace, and every little boy were looking up into the face of a father's sympathy for the first manifestation of a truth that was to make him strong. Then suppose that somewhere, anywhere, upon our earth, there came one cry of a poor, wronged, needy child. Can you not be sure that all humanity would lift itself up and never be satisfied until that child was aided? Is it less pathetic, is it less appealing, because they are here by the million instead of one or two? If one of those little creatures that the doctor read to us about had stood alone in all the generations of humanity, how infinitely pathetic it would have been! How you all would have stood up and said, 'Where is that child? Where is that child? Life shall not be life to us until we have relieved it, until those poor limbs have been straightened and those arms made strong, until those bleared eyes have been taught to see, and that voice has sung some of the first beginnings of the song of life.' Well, there are hundreds and thousands and millions of them. They look up to you from the gutter as you walk the street. They look into the face of the good, kind judge as he sits upon his bench. They come stretching out their poor sick arms to the doctors in the hospitals, and you can help them. You can help them. Help them just as you would if there were only one of them, by giving your sympathy, your blessing, your loud praise, and your large contributions to the Children's Aid Society." [1]

## EXERCISE. CHAPTER 14

### THE CONCLUSION

1. Write conclusions for each of the speeches on the campus topic mentioned in earlier chapters.
2. Write the conclusion to the speech to the favorable audience mentioned in the last two chapters.
3. Write the conclusion to the speech for the hostile audience mentioned in the last two chapters.
4. Hand in the complete conclusion to your original forensic.

[1] *Essays and Addresses*, quoted by Denney, Duncan, and McKinney, *Argumentation and Debate*, pp. 114, 115.

# CHAPTER 15

## REFUTATION

## OUTLINE

A. The nature of refutation.
B. What to refute.
    1. Answering too much.
        a. Three objections.
            (I) Loss of time and energy.
            (II) Confusion.
            (III) Undue importance to parts of opponent's case.
    2. Answering too little.
    3. Answering yourself: "straw men."
C. Three fundamental requirements.
    1. Research.
    2. Reasoning.
    3. Rhetoric.
D. Position of refutation.
E. Basic rule for all refutation.
F. Methods of refutation.
    1. Tests of evidence.
    2. Attacks on forms of arguments.
    3. Exposing fallacies.
    4. Special rhetorical devices.
        a. Reductio ad absurdum.
        b. Dilemma.
            (I) More than two horns.
            (II) Faulty disjunction.
        c. Residues.
            (I) Disjunction must be exhaustive.
        d. Turning the tables.

**A. The nature of refutation.** Refutation consists in the destruction of opposing proofs. As suggested in this

definition, refutation is, in form, destructive rather than constructive; but in its purposes and results it is no less serviceable than positive proof. With respect to any given proposition, there are always two contrary beliefs that a person may hold: he may believe that the proposition is true or that it is not true. Consequently, if we can induce him to reject the opposite of what we uphold, we are thereby preparing him to accept our own views. Negative argument pure and simple is rarely, if ever, sufficient; for belief is always essentially positive in nature, so that to destroy without building up will not serve our purpose. Refutation, therefore, is properly auxiliary and supplementary to positive proof. In our attempt to convince or persuade any man, we must realize that he will, almost surely, have in his own mind many preconceived ideas and preëstablished opinions about the matter in discussion, and that many of those ideas and opinions are liable to be antagonistic to what we are trying to make him believe. In such circumstances, our success must often depend upon our ability to destroy these hostile conceptions, thus preparing the way for the acceptance of our own contentions. The necessity for such destructive effort is, of course, peculiarly pressing in any form of disputation where the arguer is confronted by some definite opponents, as in debate, or perhaps in a newspaper controversy; for here, the audience or readers are consciously balancing the two sides of the question, and they must be made to see with perfect clearness, that one side overthrows and destroys the other. But in any form of argumentative discussion there are always opponents of some kind, either real or imaginary, and they must be mastered before we can hope to make others fully accept our own beliefs.

**B. What to refute.** The partial or complete destruction of such opposing opinions and arguments often calls for a keener insight and a more adroit attack, than does any of the positive work of construction. It therefore becomes of

the first importance to decide what, and how much, one ought to refute. Concerning this question John Quincy Adams, in his Lectures on Rhetoric and Oratory (Lecture XXII),[1] says:—

"There are three very common errors in the management of controversy against which I think it proper here to guard you, and from which I hope you will hereafter very sedulously guard yourselves. The first may be termed answering too much; the second answering too little; and the third answering yourself, and not your opponent."

**1. Answering too much.** Speaking of the first of these mistakes, he says:—

"You answer too much when you make it an invariable principle to reply to everything which has been or could be said by your antagonist on the other side. . . . If you contend against a diffuse speaker, who has wasted hour after hour in a lingering lapse of words, which had little or no bearing upon the proper question between you, it is incumbent upon you to discriminate between that part of his discourse which was pertinent, and that which was superfluous. Nor is it less necessary to detect the artifice of an adversary, who purposely mingles a flood of extraneous matter with the controversy, for the sake of disguising the weakness of his cause. In the former of these two cases, if you undertake to answer everything that has been said, you charge yourself with all the tediousness of your adversary, and double the measure by an equal burden of your own. In the latter you promote the cause of your antagonist by making yourself the dupe of his stratagem. If, then, you have an opponent whose redundancies arise only from his weakness, whose standard of oratory is time, and whose measure of eloquence if in arithmetical proportion to the multitude of his words, your general rule should be to pass over all his general, unappropriate declamation in silence; to take no more notice of it than if it had never been spoken. But if you see that

[1] Volume II, pp. 82, 83.

the external matter is obtruded upon the subject with design to mislead your attention, and fix it upon objects different from that which is really at issue, you should so far take notice of it as to point out the artifice, and derive from it an argument of the most powerful efficacy to your own side."

**a. Three objections to answering too much.** Answering too many of the lesser arguments of an opponent should be avoided for the following three excellent and practical reasons: (I) *In the first place, it involves a loss of time and energy.* This is particularly true in the case of the arguments of an opponent who wastes himself in "a lingering lapse of words," which have little or no bearing upon the proper question. But it is also true, even when the efforts of an opponent are well directed at the points in issue. The greater part of the materials in any proof are, as we have seen, only secondary in nature; they are of force merely because they tend to establish some larger, more vital fact. The important thing is, to reach and overthrow these more significant and critical parts of the proof: if they can be destroyed, the secondary facts fall with them. To sink a battle-ship does not demand that every foot of its armor be twisted and torn, that every turret and smoke-stack be demolished; one or two well-aimed shots are enough. It is only necessary that the vulnerable spot be well chosen, and that the aim be sure. Consequently it should be the purpose of the debater, in his refutation, to let the lesser points of his opponent pass unheeded, and to give his attention only to vital elements.

(II) *In the second place, answering too much results in confusion.* To attempt to refute too many petty arguments, weakens the discrimination between the important and the unimportant, which is always necessary in argumentation, if we are to make a distinct and lasting impression. Emphasis, as a means to clearness and force, is just as desirable in refutation as elsewhere, and emphasis cannot be attained, if attention is given alike to the great and the small points.

(III) *In the third place, answering too much gives undue*

*dignity and importance to many points of the other side.* Insignificant proofs are better left insignificant. To bring them anew to the attention of the audience, and give them the compliment of a serious reply, helps, rather than hinders, an opponent. One way to dispose of a foolish or trivial point is illustrated by Cicero in his defense of Q. Ligarius:—

"When Tubero, in his accusation of Ligarius before Cæsar, had made it part of his charge, that Ligarius was in Africa during some part of the civil war between Cæsar and Pompey; Cicero in his answer, not thinking it deserved a serious reply, contents himself with barely mentioning it ironically. For thus he begins his defense of Ligarius, *Cæsar, my kinsman Tubero has laid before you a new crime, and till this day unheard of, that Q. Ligarius was in Africa.*" [1]

**2. Answering too little.** Of the second fault, which consists in answering too little, Mr. Adams says:—

"The second error in controversy, against which I am anxious of warning you, is that of answering too little. It is not unfrequently found united with that against which I have last admonished you. When too much of our strength is lavished upon the outworks, the citadel is left proportionately defenceless. If we say too much upon points extrinsic to the cause, we shall seldom say enough upon those on which it hinges. To avoid this fault, therefore, it is as essential to ascertain which are the strong parts of your adversary's argument as it is to escape the opposite error of excess. To this effect it is also a duty of the first impression to obtain a control over your own prejudices and feelings. Nothing is so sure to blind us to the real validity of the reasons alleged against us, as our passions. It is so much easier to despise, than to answer an opponent's argument, that wherever we can indulge our contempt, we are apt to forget that it is not refutation." [2] Sarcasm and scorn may be *aids* to refutation, but they are not *substitutes* for it. In refutation, then, the

[1] John Ward, *A System of Oratory*, Vol. II, p. 366.

[2] Adams, *Lectures on Rhetoric and Oratory*, Vol. II, p. 88.

first essential is to understand what are the few vital points of the other side; to analyze your adversary's case, pick out his "strong parts," and answer them.

**3. Answering yourself: "Straw men":** Concerning the last and very common error, which consists in "answering yourself," the comment made by Mr. Adams cannot be overemphasized:—

"But the most inexcusable of all the errors in confutation is that of answering yourself, instead of your adversary, which is done whenever you suppress, or mutilate, or obscure, or misstate, his reasoning, and then reply not to his positions, but to those which you have substituted in their stead. This practice is often the result of misapprehension, when a disputant mistakes the point of the argument urged by his adversary; but it often arises also from design, in which case it should be clearly detected and indignantly exposed. The duty of a disputant is fairly to take and fully to repel the idea of his opponent, and not his own. To misrepresent the meaning of your antagonist evinces a want of candor which the auditory seldom fail to perceive, and which engages their feelings in his favor. When involved in controversy, then, never start against yourself frivolous objections for the sake of showing how easily you can answer them. Quinctilian relates an anecdote of the poet Accius, which every controversial writer or speaker will do well to remember. Accius was a writer of tragedies, and being once asked why he, whose dialogue was celebrated for its energy, did not engage in the practice of the bar, answered, because in his tragedies he could make his characters say what he pleased; but that at the bar he should have to contend with persons who would say anything but what he pleased. There can be no possible advantage in supposing our antagonist a fool. The most probable effect of such an imagination is to prove ourselves so." [1]

The words of Accius should be observed by every student

[1] *Lectures on Rhetoric and Oratory*, Vol. II, pp. 90, 91.

of argumentation. It is easy to set up "straw men" and knock them down, but it is dangerous and contemptible. To suggest possible arguments, unless you are sure, either that they have already been advanced, or that they must be advanced by the other side, is foolish. If the arguments are worth while, do not help your adversary by suggesting them; if they are not worth while, it is a waste of time to notice them. Furthermore, it gives an opponent the opportunity to ridicule the effort, by admitting or ignoring the points thus suggested.

**C. Three fundamental requirements.** Refutation has the same three fundamental requirements as positive argument. It must not be presumed that refutation is a separate and distinct kind of argumentation. To refute demands skill in the *three Rs* of argumentation: *research*, *reasoning*, and *rhetoric*.

**1. Research.** "The first principle of refutation is, then: Know all the ramifications of the discussion in which you take part. Preparedness on both sides of the case is the first essential of strong refutation." [1] One needs adequate information to refute an opponent. The man who is informed on a question in controversy can best correct the mistakes of an adversary. Thorough knowledge of all phases of the question is needed, and since, in Webster's phrase, "acquisition is never extemporaneous," a wise debater will not rely on readiness of tongue alone in this department of argumentation. Being "quick with a gun" is of little use when one has no gun at all—or an unloaded one.

**2. Reasoning.** Sound reasoning, straight thinking, is needed in refutation. Any slip here when one is "correcting" the reasoning of others is doubly disastrous. Clear thinking (and common honesty) will keep you from "answering yourself," will enable you to show your readers or hearers just what you are refuting. Only straight thinking will keep your shots true. Often most careful analysis of an opposing ar-

[1] Baker and Huntington, *Principles of Argumentation*, p. 171.

gument is needed in order to pick out the exact point to be refuted, or to show the exact clash of discussion. Sometimes throwing the argument into the form of a syllogism will make strikingly clear the basic structure of a confused argument. Lincoln used this device against Douglas in the debate at Galesburg:

"Now, remembering the provision of the Constitution which I have read, affirming that that instrument is the supreme law of the land; that the judges of every state shall be bound by it, any law or constitution of any state to the contrary notwithstanding; that the right of property in a slave is affirmed in that Constitution, is made, formed into, and cannot be separated from it without breaking it; durable as the instrument, part of the instrument,—what follows as a short and even syllogistic argument from it? I think it follows, and I submit to the consideration of men capable of argumenting, whether as I state it, in syllogistic form the argument has any fault in it?

"Nothing in the constitution or laws of any state can destroy a right distinctly and expressly affirmed in the Constitution of the United States.

"The right of property in a slave is distinctly and expressly affirmed in the Constitution of the United States.

"Therefore, nothing in the constitution or laws of any state can destroy the right of property in a slave.

"I believe that no fault can be pointed out in that argument; assuming the truth of the premises, the conclusion, so far as I have capacity at all to understand it, follows inevitably. There is a fault in it, as I think, but the fault is not in the reasoning; the falsehood, in fact, is a fault in the premises. I believe that the right of property in a slave is not distinctly and expressly affirmed in the Constitution, and Judge Douglas thinks it is." [1]

**3. Rhetoric.** Lastly, all that goes to make effective expression, rhetoric—oral or written, is of unusual importance in refutation. Careless, inaccurate, disorganized style, or a weak and listless delivery, will counteract the good offices

[1] Quoted from Foster's *Argumentation*, pp. 183, 184.

of both thorough knowledge and sound reasoning. Fact is the bullet, reasoning is the aim, and expression (we trust no untoward application of our figure will be made) is the force that drives the bullet to its mark.

**D. Position of refutation.** With respect to the method of handling refutation, a common word of advice is, to follow up refutation with positive proof. This suggestion, however, is of a general nature and is open to exceptions. But it must not be forgotten that refutation is destructive; it demolishes, but does not build up. To make men act or thoroughly believe, it is not enough to make them see there is no reason why they should not be convinced; they must be made to see that there is a positive reason why they should be convinced. Consequently, pure refutation is weak and lacks the strongest elements of conviction; it is a necessary help, but is not sufficient in itself. It is, therefore, generally an anti-climax to place refutation at the end of the discussion, or at the end of any important division of the argument. Positive proof rather than refutation should be given the most emphatic place.

This leads to the matter of the *arrangement* of refutation. With respect to the strength and the weakness of the points of refutation, the same rules apply as in positive proof; the emphatic places are the beginning and the end. If, then, the answer to be made is strong, it may well be put first or toward the last. Weaker answers are best hidden in the middle. However, it often happens that an opponent makes *a point* or presents some idea, *which must be overthrown before the speaker or writer can proceed* with his own proof. In such circumstances, clearly the answer to the point must be made at the *very beginning*. Doubt often arises as to whether it is best to make the answer a distinct point in the discussion, or to introduce it merely as an incident to some other point. This depends upon the importance of the argument to be answered, and so is a question of personal judgment in each particular case. In general, however, such answers are best

given in connection with those parts of one's own proof with which they are naturally associated. In fact, they should always be considered wherever they happen to arise in the course of one's own argument, except where there is a peculiar, definite reason (such as extreme importance of the point made or effective challenge of previous speaker) for setting this rule aside. Then usually such refutation should be given before constructive argument. It is therefore true in general that, with the exception of the most vital of the proofs of the opposition, *refutation is best made as the occasion for the answer arises in the course of one's own demonstration.* These individual points that may be taken up as they arise are sometimes called "*special refutation.*" But if the answer to an opponent's argument is, under the circumstances, of such importance as to make any large part of the question depend upon it, there should be no hesitation in making it one of the *main points of the proof*, and emphasizing it as such. Such a main point may be taken up wherever it most logically fits into the case. These large fundamental points that make an important part of the case are sometimes called "*general refutation.*"

**E. Basic rule for all refutation.** Before taking up any of the particular methods there is one principle of refutation that should be emphasized. *Always make perfectly clear to the audience or reader, just what is the point that is to be attacked, and the nature of the attack to be made.* Show *what* you are going to refute, and *how* you are going to refute it. Repeat what your opponent has said and then say that you will show this to be *false*, *irrelevant*, *unimportant*, *untrustworthy*, etc., as the case may be. The statement to which objection is made should always be *distinctly* stated at the start, and its place in the case—its relation to main points, issues, or proposition—should be clearly shown. This statement should be supplemented, while the reply is being presented, by whatever explanations are necessary, in order to make evident the purposes and results of the answer. It must be made

clear that there are two opposing arguments which directly meet, and that one overthrows the other. The force of refutation is destructive, and it cannot achieve its full effect unless the audience understands *just what is to be destroyed*, and *just how the refutation accomplished the destruction.*

A study of forensic and deliberative oratory shows the painstaking care to observe this rule used by the ablest speakers and writers. The following is an example of Webster's method in forensic refutation, a model of clearness in introducing refutation. The quotation is from his speech in the case of Ogden *vs.* Saunders:—

"Here we meet the opposite arguments, stated on different occasions in different terms, but usually summed up in this, that the law itself is a part of the contract, and therefore cannot impair it. What does it mean? Let us seek for clear ideas. It does not mean that the law gives any particular construction to the terms of the contract, or that it makes the promise, or the consideration, or the time of performance, other than is expressed in the instrument itself. It can only mean that it is to be taken as a part of the contract or understanding of the parties, that the contract itself shall be enforced by such laws and regulations respecting remedy and for the enforcement of contracts as are in being in the State where it is made at the time of entering into it. This is meant, or nothing very clearly intelligible is meant, by saying the law is part of the contract. . . .

"Against this we contend:—

"1st. That, if the proposition were true, the consequence would not follow.

"2nd. That the proposition itself cannot be maintained." [1]

To take an illustration from a deliberative oration: Webster, in replying to Calhoun in the Senate, on the question of the protective tariff, divided his speech into five parts, corresponding to the five main points of his opponent. The following are the sentences introductory to these parts respectively:—

[1] *The Works of Daniel Webster*, Vol. VI, p. 29.

"I. In treating of protection, or protective duties, the first proposition of the honorable member is, that all duties laid on imports really fall on exports; that they are a toll paid for going to market.

"II. Another opinion of the honorable member is, that increased production brings about expansion of the currency, and that such increase makes a further increase necessary. His idea is, that, if some goods are imported, the amount of exports still keeping up, the whole export being thus paid for by the import, specie must be brought to settle the balance; that this increase of specie gives new powers to the banks to discount; that the banks thereupon make large issues, till the mass of currency becomes redundant and swollen; that this swollen currency augments the price of articles of our own manufacture, and makes it necessary to raise prices still higher, and this creates a demand for the imposition of new duties. This, as I understand it, is the honorable member's train of thought.

"III. There is a third general idea of the honorable gentleman, upon which I would make a few observations. It is, that the South and West are the great consumers of the products of the manufactures of the North and East; that the capacity of the South to consume depends on her great staples; and that the sale of these depends mainly on a foreign market.

"IV. A fourth sentiment of the honorable member is, that the removal of all duties increases the exportation of articles manufactured at home.

"V. Finally, the honorable member is of the opinion that the whole system of protection was prostrated, and is prostrated, cut up, root and branch, and exterminated forever, by the State interposition of South Carolina." [1]

**F. Methods of refutation.** Refutation is the destruction of opposing proofs. Any method by which the proof of an opponent may be weakened or destroyed is a "method of refutation." There are four different sets of such methods in argumentation. It must be borne in mind, however, that these are *not mutually exclusive* lists. In many points they practically coincide, being simply different names for the same things, because these things are looked at from differ-

[1] *The Works of Daniel Webster*, Vol. IV, pp. 528–538.

ent standpoints. We have considered three of these sets under evidence, forms of argument, and fallacies. The fourth is "special rhetorical devices." It is needless to do more than mention the first three here.

**1. Tests of evidence.** Showing that the evidence presented by an opponent is unsound—in some way fails to meet the proper tests of such evidence—is effective refutation. (See Chapter 6.)

**2. Attack on the forms of arguments.** Demonstrating the weakness of any argument by the use of the tests discussed in Chapter 7 is also an excellent method of refuting an adversary.

**3. Fallacies.** When we expose a fallacy in another's argument we are using a very common and very effective method of refuting him. (See Chapter 8.)

**4. Special rhetorical devices.** The fourth list of special rhetorical devices, not found in any of these other lists, is usually given separately as an enumeration of the methods of refutation. These devices are (a) *reductio ad absurdum*, (b) dilemma, (c) residues, and (d) turning the tables.

**a. Reductio ad absurdum.** One of the most commonly used methods of refutation is that of reducing an argument to an absurdity, or, as it is named, the *reductio ad absurdum*. The refuter adopts for the moment the line of argument of his opponent; then, by carrying it out to its logical conclusion, shows that it results in an absurdity. For example, "When a lawyer asserted in court that a corporation can make no oral contract because it has no tongue, the judge exposed the fallacy by saying, simply, "Then, according to your own argument, a corporation could not make a written contract because it has no hand.'" [1]

Cicero uses this method in the following:—

"Nor, if Publius Crassus was both an orator and a lawyer, is the knowledge of the civil law for that reason included in the

[1] Foster, p. 177.

power of speaking. For if any man, who, while excelling in any art or science, has acquired another, shall hold that his additional knowledge is a part of that in which he previously excelled, we may, by such a mode of argument, pretend that to play well at tennis is a part of the knowledge of civil law, because Publius Mucius was skilled in both." [1]

Macaulay makes striking use of this device:—

"Many politicians of our time are in the habit of laying it down as a self-evident proposition, that no people ought to be free till they are fit to use their freedom. The maxim is worthy of the fool in the old story, who resolved not to go into the water until he had learned to swim. If men are to wait for liberty until they become wise and good in slavery, they may indeed wait forever." [2]

This method is effective because of its simplicity and directness; it also has in it an element of ridicule that is persuasive against an opponent. William Ellery Channing, in a reply to Henry Clay on the slavery question, used this method as follows:—

"But this property, we are told, is not to be questioned on account of its long duration. 'Two hundred years of legislation have sanctioned and *sanctified* negro slaves as property.' Nothing but respect for the speaker could repress criticism on this unhappy phraseology. We will trust it escaped him without thought. But to confine ourselves to the argument from duration; how obvious the reply! Is injustice changed into justice by the practice of ages? Is my victim made a righteous prey because I have bowed him to the earth till he cannot rise? For more than two hundred years heretics were burned, and not by mobs, not by Lynch law, but by the decrees of councils, at the instigation of theologians, and with the sanction of the laws and religions of nations; and was this a reason for keeping up the fires, that they had burned two hundred years? In the Eastern world, successive despots, not for two hundred years, but for twice two thousand, have claimed the right of life and death over millions, and, with no law but their own will,

[1] Quoted by Foster, p. 177.

[2] Quoted by Foster, p. 178.

have beheaded, bowstrung, starved, tortured unhappy men without number who have incurred their wrath; and does the lapse of so many centuries sanctify murder and ferocious power?"

Again:—

"But the great argument remains. It is said that this property must not be questioned, because it is established by law. 'That *is* property which the law declares *to be* property.' [1] Thus human law is made supreme, decisive, in a question of morals. Thus the idea of an eternal, immutable justice is set at naught. Thus the great rule of human life is made to be the ordinance of interested men. But there *is* a higher tribunal, a throne of equal justice, immovable by the conspiracy of all human legislatures. 'That is property which the law declares to be property.' Then the laws have only to declare you, or me, or Mr. Clay, to be property, and we become chattels and are bound to bear the yoke! Does not even man's moral nature repel this doctrine too intuitively to leave time or need for argument?" [2]

**b. The dilemma** is one of the oldest of all known rhetorical forms. As a method of refutation, it consists in reducing an issue to an alternative, and then showing that both members of the alternative are untenable. These two members are called the "horns of the dilemma." The refuter says in substance: "Now, with respect to this point at issue, there are two and only two possibilities, viz., A and B. But A is not true, and B is not true; consequently your contention fails." In order to make the dilemma conclusive, obviously two things are necessary: (I) The horns of the dilemma must include all the possibilities in the case, i. e., *the alternative must be exact.* (II) *Both members of the alternative must be destroyed.*

James Wilson, speaking in the convention for the province of Pennsylvania, in vindication of the colonies, January, 1775, used the dilemma as follows:—

"In the first place, then, I say that the persons who allege that

[1] The italics are by Mr. Clay.

[2] *The Works of William E. Channing, D. D.*, Vol. V, pp. 48, 49.

those employed to alter the charter and constitution of Massachusetts Bay act by virtue of a commission from his majesty for that purpose, speak improperly, and contrary to the truth of the case. I say they do not act by virtue of such commission; I say it is impossible they can act by virtue of such a commission. What is called a commission either contains particular directions for the purpose mentioned, or it contains no such particular directions. In either case can those, who act for that purpose, act by virtue of a commission? In one case, what is called a commission is void; it has no legal existence; it can communicate no authority. In the other case, it extends not to the purpose mentioned. The latter point is too plain to be insisted on: I (will) prove the former." [1]

Jeremiah S. Black, in defense of the right of trial by jury, thus attacked the contention of his opponents, which was that the law of nations was binding in the trial of the cause in question:—

"Our friends on the other side are quite conscious that when they deny the binding obligation of the Constitution they must put some other system of law in its place. Their brief gives us notice that, while the Constitution, and the acts of Congress, and *Magna Charta*, and the common law, and all the rules of natural justice shall remain under foot, they will try American citizens according to *the law of nations!* But the law of nations takes no notice of the subject. If that system did contain a special provision that a government might hang one of its own citizens without a judge or jury, it would still be competent for the American people to say, as they have said, that no such thing should ever be done here. That is my answer to the law of nations." [2]

**(I) More than two horns.** Sometimes the possibilities with respect to the point in issue cannot be reduced to two. There may be a choice offered of any one of three or more possible conditions, or courses of action. In such a case, to state the issue in the form of a dilemma, presenting a single alternative, would not be an exact disjunction, and so would

[1] *Eloquence of the United States*, Vol. V, p. 56. E. and H. Clark.

[2] *Great Speeches by Great Lawyers*, p. 507.

be fallacious; to be truthful it is always necessary to state *all* the possibilities of choice, whatever their number. When more than two possibilities are to be considered, the method is, properly speaking, not a dilemma; but the *modus operandi* is similar. Webster, in his argument in the case of the Providence Railroad Co. *vs.* City of Boston, made a division into three possibilities. Mr. Webster is here contending against the proposition that a certain street or piece of land is a public highway:—

"If this street, or land, or whatever it may be, has become and now is a public highway, it must have become so in one of three ways, and to these points I particularly call your honors' attention.

"1st. It must either have become a highway by having been regularly laid out according to usage and law; or

"2d. By *dedication* as such by those having the power to dedicate it, and acceptance and adoption so far as they are required; or

"3d. As a highway by long user, without the existence of proof of any original laying out, or dedication.

"It is not pretended by any one that the land in question is a highway, upon the last of these grounds. I shall therefore confine myself to the consideration of the other two questions; namely, 'Was there ever a formal and regular laying out of a street here? or was there ever a regular and sufficient dedication and acceptance?'" [1]

(II) **If the disjunction of the dilemma is faulty** an opening is left for an opponent which may result in great discomfiture to the author of the defective dilemma.

"Thus Lincoln, in his speech on the Dred Scott Decision, refused to accept either of the horns of the dilemma presented by Douglas. Lincoln said of Douglas:—

"He finds the Republicans insisting that the Declaration of Independence includes all men, black as well as white, and forthwith he boldly denies that it includes negroes at all, and proceeds to argue gravely that all who contend it does, do so only because

[1] *Works of Daniel Webster*, Vol. VI, p. 186.

they want to vote, to eat, and sleep, and marry with negroes. He will have it that they cannot be consistent else. Now I protest against the counterfeit logic which concludes that because I do not want a black woman for a slave, I must necessarily want her for a wife. I need not have her for either. I can just leave her alone." [1]

**c. The method of residues,** like that of the dilemma, is founded upon a division of the point in question into parts. The difference is that in the dilemma all the parts are destroyed, whereas, in the method of residues, one of the parts is left standing. By the method of residues, the matter in dispute is divided into two or more sections, which include all the possibilities in the case; then all but one of these are demolished, the one left standing being the aspect of the issue which the refuter wishes to establish. "There are," says the refuter, "three possibilities, A, B, and C. But A and B are false, consequently the presumption is that C is true." This method is not, strictly speaking, a method of refuting. It is rather a method of using refutation: the ultimate purpose of the speaker or writer is not destructive, but constructive; he destroys some of the parts into which he divides the question, in order that he may establish the remaining part. He uses refutation to accomplish his end; but the end itself is constructive proof.

(I) **Division must be exhaustive.** *The first requisite in using the method of residues is, that the division of the whole into parts shall be exhaustive.* The strength of the method depends entirely upon the assumption, that all the possibilities in the case are destroyed save one. If, then, the disputant omits, in his division, to mention one of the possibilities, he has proved nothing, for it still remains uncertain which possibility is true,—the one he seeks to establish or the one he failed to mention. Again, in order to make the work complete, it is necessary that the residuary part be enforced by positive demonstration. The refuting of all but one of the

[1] Foster, pp. 182, 183.

possibilities, leaves a presumption that the remaining possibility is true; but there may well be a suspicion that even this last part too is false, or that there is some fallacy in the division. Consequently, to be at all convincing the residuary part must be enforced by positive proof.

An excellent example of the use of the method of residues, is that found in Thomas H. Huxley's Lectures on Evolution, delivered in New York in 1876. Professor Huxley was here endeavoring to establish the theory of evolution, as the true theory respecting past history of the universe. In his first lecture he divided the question into three possible hypotheses as follows:—

"So far as I know, there are only three hypotheses which ever have been entertained, or which well can be entertained, respecting the past history of Nature. I will, in the first place, state the hypotheses, and then I will consider what evidence bearing upon them is in our possession, and by what light of criticism that evidence is to be interpreted.

"Upon the first hypothesis, the assumption is, that phenomena of Nature similar to those exhibited by the present world have always existed; in other words, that the universe has existed from all eternity in what may be broadly termed its present condition.

"The second hypothesis is, that the present state of things has had only a limited duration; and that, at some period in the past, a condition of the world, essentially similar to that which we now know, came into existence, without any precedent condition from which it could have naturally proceeded. The assumption that successive states of Nature have arisen, each without any relation of natural causation to an antecedent state, is a mere modification of this second hypothesis.

"The third hypothesis also assumes that the present state of things has had but a limited duration; but it supposes that this state has been evolved by a natural process from an antecedent state, and that from another, and so on; and, on this hypothesis, the attempt to assign any limit to the series of past changes is, usually, given up." [1]

[1] *Popular Science Monthly*, Vol. X, p. 44.

He then proceeded, in his series of lectures, to overthrow the first two hypotheses, leaving the third—the theory of evolution—standing as the residuary part, and finally he supported this theory by positive proof of its probability.

Burke, in his speech on *Conciliation with America*,[1] used the method of residues. He began:—

"Sir, if I were capable of engaging you to an equal attention, I would state, that as far as I am capable of discerning, there are but three ways of proceeding relative to this stubborn spirit which prevails in your Colonies, and disturbs your government. These are:—to change that spirit, as inconvenient, by removing the causes; to prosecute it as criminal; or, to comply with it as necessary. I would not be guilty of an imperfect enumeration; I can think of but these three. Another has indeed been started, that of giving up the Colonies; but it met so slight a reception that I do not think myself obliged to dwell a great while upon it. It is nothing but a little sally of anger, like the frowardness of peevish children, who, when they cannot get all they would have, are resolved to take nothing."

He then considered the first two ways at length and proved them impracticable, and concluded:—

"If then the removal of the causes of this spirit of American liberty be, for the greater part, or rather entirely impracticable; if the ideas of criminal process be inapplicable, or if applicable are in the highest degree inexpedient, what way yet remains? No way is open, but the third and last, to comply with the American spirit as necessary; or, if you please, to submit to it as a necessary evil." [2]

**d. "Turning the tables"** is simply showing that something presented by your opponent really supports your case and not his. It is "stealing his thunder." To turn the argument of an opponent against him is not often possible. But circumstances sometimes give the opportunity. A piece of

[1] Cook's edition, pp. 30, 31.

[2] Ibid., pp. 38, 39.

testimony may be used by a writer, when he has not fully considered all the interpretations that may be put upon it. It not infrequently happens that evidence, or an argument, is introduced to give support to some particular point, and, in its bearing on that phase of the question, the evidence may be favorable to the speaker or writer who introduces it; but as the discussion proceeds, it may turn out that, with respect to some other phase of the question, the evidence or the argument may be interpreted in another way, adversely to its inventor. The effect of such an unexpected turn of affairs is obvious; the opponent is "hoist with his own petard." The very manner of introducing the proof adds to its effectiveness. Webster, in the Girard Will Case, used this method in attacking one of the proofs of the defendants:—

"The arguments of my learned friend, may it please your honors, in relation to the Jewish laws as tolerated by the statutes, go to maintain my very proposition; that is, that no school for the instruction of youth in any system which is in any way derogatory to the Christian religion, or for the teaching of doctrines that are in any way contrary to the Christian religion is, or ever was, regarded as a charity by the courts. It is true that the statutes of Toleration regarded a devise for the maintenance of poor Jewish children, to give them food and raiment and lodging, as a charity. But a devise for the teaching of the Jewish religion to poor children, that should come into the Court of Chancery, would not be regarded as a charity, or entitled to any peculiar privileges from the court." [1]

Lincoln "turned the tables" admirably in his speech at Cooper Union in February, 1860.

"Some of you delight to flaunt in our faces the warning against sectional parties given by Washington in his *Farewell Address*. Less than eight years before Washington gave that warning he had, as President of the United States, approved and signed an act of Congress enforcing the prohibition of slavery in the Northwestern Territory, which act embodied the policy of the government, u[illegible]

[1] *The Works of Daniel Webster*, Vol. VI. p. 166.

that subject, up to and at the very moment he penned that warning; and about one year after he penned it, he wrote Lafayette that he considered that prohibition a wise measure, expressing in the same connection his hope that we should at some time have a confederacy of free states.

"Bearing this in mind and seeing that sectionalism has since arisen upon this same subject, is that warning a weapon in your hands against us or in our hands against you? Could Washington himself speak, would he cast the blame of that sectionalism upon us who sustain his policy, or upon you who repudiate it? We respect that warning of Washington and we commend it to you, together with his example pointing to the right application of it." [1]

## EXERCISE. CHAPTER 15

### REFUTATION

1. Hand in if possible three examples of poor refutation which answers too much, too little, or answers "straw men," taken from current periodicals, lectures, text-books, etc.
2. Hand in two original examples of each of the four special rhetorical devices for refutation.

[1] Quoted by Foster, p. 189.

# PART III. DEBATE

## CHAPTER 16

### THE NATURE OF DEBATE

### OUTLINE

A. Definition.
B. Relation to argumentation.
C. The work of preparation.
D. "Contest Debates" and debates in "Real Life."
    1. The immediate purpose of each type.
    2. Getting nearer to the truth.
    3. Three types of decisions.
        a. The juryman's vote.
        b. The legislator's vote.
        c. The critic's vote.
    4. Sport or game.
    5. Convictions.
    6. Preparation of contest debates.
E. The affirmative case.
F. The negative case. Four types.
    1. Pure refutation.
    2. Defense of present.
    3. Adjustment.
    4. Counter proposition.
        a. State clearly.
        b. Actually counter.
G. Personal attitude and bearing.
    1. Personal tone.
    2. Self-control.
    3. Sarcasm and ridicule.
    4. Personal inconsistency.

**A. Definition.** In the preceding chapters the principles that have been set forth apply equally to written and to

spoken argumentation. But in that form of discussion commonly known as debate, which consists in *a direct oral argumentative contest between two opposing sides, on a definite question, at a definite time*, some of these principles must undergo slight adaptations, and to them must be added other new principles.

**B. Relation to argumentation.** A good argumentative essayist is not necessarily a good debater, any more than a good writer is necessarily a good speaker. To begin with, a debater in addition to knowing the principles of argumentation *must know something of the arts of public speech;* he may not be positively eloquent, but he must know how to express himself before an audience with a reasonable degree of ease and force. But public speaking is not all. A man who can write and memorize and deliver a good argumentative address is not necessarily a good debater. The latter must have all the skill of the former, and in addition, he *must know how to conduct his case on the platform.* He must know the "rules of the game," and must be able to meet the many situations in offense and defense as they arise in the contest. In other words, the debater, in addition to being a good speaker, *must be something of a general.* In polemic warfare there are ambuscades, unexpected reënforcements for the enemy, and critical situations of various kinds some of which cannot be foreseen. To meet these contingencies and master them demands a clear head, quick judgment, firm decision, and a certain amount of bold self-confidence. There is, moreover, a strategy of debate which must be learned by study and experience. How to open the battle, when to use light cavalry and when to use artillery, when to attack, when to give way, how to plan an ambuscade, how to retreat—a knowledge of these things belongs no less to the debater than to the military commander.

**C. The work of preparation for debate is often very different** in many ways from that for written argument. *In preliminary reading*, attention must be given to matters that

might under other conditions safely be neglected. *In selecting evidence*, the choice must often be determined by the special conditions; evidence that is good in an essay, is often ineffective in spoken argument. *In outlining the case*, the choice of the main headings and the arrangement of the points must be planned, with regard to the exigencies and the strategy of the contest. Then, also, *preparation for the refutation* of an opponent's arguments must be much more thorough. To attempt to make fixed and inexorable rules for many of these processes would be a mistake; uniformity of method in many phases of debating is undesirable, as well as impossible. Consequently, the principles in the following chapters are for the most part general rather than specific. Further, it should be understood that debate is not a form of argumentation entirely separate and distinct from other forms. *Every principle enunciated in the preceding chapters, on argumentation in general, has full force in debate.* The suggestions to be given are merely additional.

**D. "Contest debates" and debates in "real life."** [1] Let us understand perfectly what is meant by debating. Broadly speaking, wherever in this book we refer to debating, we mean real debating—the actual discussion of actual problems in real life. It is as training for this sort of debating that a course in debate should be conducted. (Indeed, the training for the debates of real life is the ultimate purpose of the formal contest debate.) But before proceeding to a careful consideration of the *general principles* of *debating*, which are the same in both "contest" and "real life" debates, let us consider

[1] For full discussion of this topic see as follows in the *Quarterly Journal of Public Speaking:* Editorial "A disconcerted editor and others," by J. M. O'Neill, Vol. I, No. 1, p. 79; "Debating as related to non-academic life," by W. H. Davis, Vol. I, No. 2, p. 105; Editorial by J. M. O'Neill, "Able non-debaters," Vol. I, No. 2, p. 201; Editorial by J. M. O'Neill, "Judges again," Vol. I, No. 3, p. 305; "Is debating primarily a game?" by W. H. Davis, Vol. II, No. 2, p. 171; Editorial by J. M. O'Neill, "Game or Counterfeit Presentment," Vol. II, No. 2, p. 193; Some of the material used in this chapter was first published in these editorials. J. M. O'N.

some of the limitations of contest debating. There are certain differences in attending circumstances, between contests and real life, which necessitate a different conception as to the immediate purpose of the contests and proper manner of judging them.

**1. The immediate purpose of each type.** The broad objects back of contest debating are properly the training and valuable experience received by each one participating, the reward of merit to students who excel in class work and trials, the setting of good examples of debating before large bodies of students, etc. But the *immediate purpose* of the debaters in any given contest is, and should be, to demonstrate their superior ability (in debate) over their opponents. Keeping this truth in mind will help to clear up many difficulties and misconceptions in regard to contest debating.

The immediate purpose of any debate in real life, on the other hand, is to bring about the *right settlement of the question.* The judges should be concerned with nothing else.

The decision in "real life" should be on "the case" not on the ability of the debaters concerned. In contest debating such a purpose is obviously not aimed at, and therefore a decision on "the case" is highly undesirable. Here the decision should always be on the *comparative ability of the debaters* on the opposing teams. This statement does not mean that in regard to the principles of argumentation already discussed (or the additional principles of debating presented in this section), there is any fundamental difference in real life and in contest debates. But in one situation *debating* is to be judged, in the other *the question* is to be settled. The same rules and principles apply to the debating in both situations. As far as the debaters and audience are concerned *the contest should be conducted exactly as though the audience were to settle the question.* But the judges should award the debate to the team that has done the work better—to the better debaters—not to the team they agree with as to the merits of the case.

**2. "Getting nearer to the truth" poor basis for contest decision.** A decision for an affirmative team should not mean that the affirmative team "got nearer to the truth" as it is sometimes put. It should mean that the affirmative team is on the whole composed of *better debaters* than the negative team. The trouble with the other basis for decisions is that before the judges can determine which side is *right*—which side gets nearer the truth—they must necessarily determine what is right—what the truth is. Of course the truth to any judge is the side of the question that he happens to believe in. Surely, then, a team that argues directly away from the truth has no chance against a team that argues for the truth, no matter how feebly. So the result, in any case so judged, must be that each judge will vote for the team that upholds the side of the question that he happens to favor. Then the decision records simply the private opinions of the judges on *the question* discussed. Anyone interested in these opinions could probably get them by mail at a great saving of time and money. It is neither right nor complimentary to the judges to expect them to have no opinions on the questions debated, or to expect the debaters under the limitations of a contest debate *to change* the opinions of the judges. The proper question to be answered by the award is, "Which institution has the better debating team?" Each judge should know enough about debating (regardless of his knowledge or opinions in economics, politics, theology, etc.) to give an expert opinion on the comparative ability of the opposing teams, entirely aside from his private opinion on the question debated, either before or after the deabte. Of course, judges should be chosen who know enough about real debating to know that skill does not consist in glibness of tongue, trickery of phraseology, nor superficiality of thought.

**3. Three types of decisions.** What are the possible types of decisions? There are three. A judge may conceivably vote in any one of three different ways. He may give a "juryman's vote," a "legislator's vote," or a "critic's vote.'

**a. The juryman's vote.** A juryman is supposed to exclude from his consideration all except the evidence duly admitted in a given trial, and to vote on that regardless of his prejudices, convictions, evidence privately gained, or real feeling as to right or wrong. His question is not "Is this defendant really guilty?" but "Is this defendant guilty according to the law and evidence advanced here in this trial?" Is this the type of vote we want from a judge in an intercollegiate debate? Decidedly not. *First, the side having the burden of proof would be almost sure to lose, simply because the time allowed is too short to prove the cases* undertaken by the affirmatives in intercollegiate debate. There is time enough for a good discussion, time enough for some fine training and experience, time enough for a keen game, but not *to prove* the case to *jurymen* who exclude all but the evidence offered on that occasion. *Second*, it is bad to aim at this type of decision, *because it is practically impossible to get this attitude of mind on the part of the judges.* Even if men do sometimes perform this feat in the courtroom (when aided by the rigidity of procedure, the rulings of the judge, the oaths, and the immediate, recognized, important results of their decisions) it is absurd to expect it in intercollegiate debate. So the decision will be simply the juryman's opinion of the merits of the question, his old opinions, perhaps strengthened or weakened but essentially unchanged by the debate. So his decision means nothing as far as the given contest is concerned. The result is usually the same actually as that discussed next—the legislator's vote.

**b. The legislator's vote** is supposed to be strictly on the merits of the question (as seen by himself or by a constituency which has instructed him, usually the former). He is not confined to the evidence offered in a given debate in the house, but relies on all the information that he has. He thinks (or is supposed to think) of what he has read, what he has experienced, what he has heard elsewhere, and "all things considered" he votes as he believes *on the question.*

It is neither the case made out by one side, nor the skill of the debaters in the discussion that determines his vote. He believes so and so, and votes accordingly. It is self-evident that such a registering of the judge's private beliefs on the question is of no use in intercollegiate debate. It has nothing to do with the work of the teams, and is usually unrelated to what was done in the debate, because of the impossibility of *actually reversing* a judge's opinion on a big question in the time allowed.

**c. The critic's vote.** The other possibility (as far as we know the only other one) is a critic's vote, or expert's vote, giving expert opinion as to the comparative excellence of the debating done. Such a judge knowing well all the limitations of formal contest debating says when the contest is over which side has the better team. This type of decision is the only correct one. It is the only one that can be *won or lost by the debaters.* Political creeds, social philosophies, have nothing to do with it. The team doing the best *work* not the team *lucky* enough to fit in with the beliefs of the judges, gets the prize. Such decisions encourage good genuine discussions, and discourage jockeying for judges and aiming cases at the known predilections of the members of the board. Of course, such critics' decisions should whenever possible be given by experts in debating. No one should be called on to judge a debate who is unfamiliar with the nature of such contests. Judges should be chosen as carefully as referees and umpires, and on same general grounds. Of course, decisions should always be rendered by ballot without consultation. The debating should all be done by the team. The judges should judge without discussions. (See Appendix C for sample ballot with instructions to judges.)

**4. Sport or game.** The custom has grown in recent years of referring to contest debating as a *sport or a game.*[1] This seems to us a proper thing because essentially true

[1] See footnote at beginning of this chapter.

This conception helps us to keep the right attitude toward it, helps judges to decide on proper grounds, and frees us from much cant and hypocrisy.

**5. Convictions of the debaters.** Another point on which there has been some confusion has been the question of the convictions of debaters. There has been of late years much careless talking on this point by people who have not understood the conditions governing intercollegiate debates. They fail to realize that the purpose of these contests is to afford opportunity for keen competition and training for the discussions of real life. The fear that a young man is morally injured by debating on the side of the question which does not coincide with his convictions has very little basis.

It is *not* the proper business of the colleges to turn out "young men with ardent convictions on the side of the right," so far as the particular kind of questions usually used in intercollegiate debates is concerned. Which is the "side of the right" in the armament question? the tariff question? the recall of judicial decisions? the ship-subsidy question? government ownership of railroads? Those who have college debating in charge in the class room or as an extra-curricular activity should not be, professionally, advocates of either side. Sir Roger's judicial attitude is altogether better. It is our business rather to see that that which "might be said on both sides," be it little or much, is discovered, analyzed, organized, and presented clearly, honestly, intelligently.

It certainly *is* the duty of the colleges to turn out "young men who can make a good argument" on either side of such questions without regard to their convictions. Whether a man *will* argue against his convictions in actual life, where the "merits of the question" are really to be decided, is a very different thing. Surely he must be mentally capable of doing it. To be able to argue well on one side of these economic and political questions, a man must be *capable* of arguing on the other side. Argument that is worth while has an

intellectual basis. It is built upon facts and intelligent inferences rather than on ardent convictions. Skill in the use of the facts and inferences available may be gained on either side of a question without regard to convictions. Instruction and practice in debate should give young men this skill. And where these matters are properly handled, stress is not laid on getting the speaker to think *rightly* in regard to the merits of either side of these questions—but to think *accurately* on both sides. Stress is laid on getting the student to investigate thoroughly (which includes impartially), to choose evidence wisely, to organize his case logically, and to discuss it intelligently. While students are studying and practicing for the purpose of gaining facility in these things, the less attention paid to ardent convictions the better. Requiring a student to present the best possible case for the side of a political or economic question in which he thinks he doesn't believe is to be highly recommended as an educative process. If only all our lawmakers could be compelled to undergo severe training in just this exercise how much easier it would be for them to distinguish facts from prejudices, and to learn to draw intelligent inferences from the former and to disregard the latter. This is "vocational training for conscienceless politics" in the same way that studying pharmacy prepares students to become poisoners, that athletics prepares for all sorts of physical violence, and that medical colleges prepare for quackery and malpractice.

Of course we grant that the debater who can add to the intellectual preparation mentioned above, real conviction and emotional enthusiasm will have a better chance to show his powers on the platform. We like him to have, whenever possible (and appropriate), that true eloquence which Webster says labor and learning toil for in vain. So in making up contest teams in debate the convictions of the debaters, when they have convictions, are probably always considered —not, however, for the purpose of safe-guarding morals.

Since the triangular system (allowing each college to have a team on each side) is almost universal now, it probably very rarely happens that a student who has ardent convictions talks against them in an intercollegiate contest. But it would not undermine his moral character if he did.

**6. The preparation of contest debates** should be thorough. Debaters who rely on glib talking to the exclusion of thorough knowledge will be defeated in well-judged contests. Debaters should know and follow the principles of argumentation. Intelligent and effective debating follows them everywhere. The only coaching allowed should be done by well-trained teachers of argumentation and debate, and should be confined to criticism and suggestion—never going to actual work in getting up the debate. Students who do not know already how to prepare a debate—who are not acquainted with principles and conventions of argumentation and debate should not be on debating teams. Supervision and criticism by regular teachers ought to be good. Special coaching by men hired for that purpose is usually bad. It is well to have debates arranged in triangular leagues so that each institution will have one team on each side of the question. Then practice debates—full debates—can be had frequently. This is the best possible preparation for the platform. Speeches should not be written at all under these circumstances. The debaters should use an outline only, which will grow and change as the case develops. Debaters so prepared will be at home on the platform in the debate and audiences will be spared that almost universally stupid production—a memorized speech *in a debate.*

**E. The affirmative case.** The work of the affirmative in a debate differs somewhat from that of the negative. The affirmative has the burden of proof in all properly worded questions. The affirmative case then *must establish the affirmative of all issues*—all potential issues not admitted by the negative. The question should be analyzed to find the issues (see chapter 4). Then a partition should be decided

upon that will back up the affirmative of all issues on which there is a fight.

**F. The negative case. Four types.** The negative, on other hand, has a somewhat different problem. Sometime, somehow, the negative *must block at least one issue.* This is essential for any negative case. But as it is difficult to tell just how effectively (in the opinion of others) one has succeeded in blocking any given issue, the negative usually wants to put up as strong a case as the circumstances will allow—not as weak a case as will actually block the affirmative. The negative usually fights on each possible issue that allows a good chance of opposition. This gives an impression of greater strength in the negative case as a whole. Viewed from this standpoint there are four types of negative cases possible.

**1. Pure refutation.** The first, and weakest, negative is a case of pure refutation. The negative simply attacks what the affirmative offers and seeks to destroy it without taking any responsibility for "the situation." It in effect says to the affirmative, "You are wrong, that's all. We are not saying what is right, but your proposition is no good." It is simple denial. It is simply resting on their presumption and trying by pure refutation to prevent the affirmative from establishing a *prima facie* case. Such case, is, of course, only permissible when it can be made out beyond any question. Where it is possible to show the affirmative is hopelessly wrong that may be all that is necessary for the time being. This type should never be used when there is any good or truth at all in the affirmative contentions. It is practically never found in contest debating.

**2. Defense of the present.** The second type of negative is a positive "defense of the present" (in addition to refutation of course). The affirmative is wrong because no change is needed at all. There is nothing wrong in the present situation. No crime has been committed. There is no graft, no inefficiency. "Whatever is is right." This is little better

than pure refutation of the affirmative, but does have the added element of actually defending the negative presumptions. This might be called a "stand pat" case.

**3. Adjustment.** The third case is one of adjustment, repairs, some changes, but not an adoption of the affirmative case. It is a liberal view of the situation, ready to make what changes are necessary. Admitting the present is not perfect, but still denying that the affirmative is right, it substantially defends the present. This is a very common type of negative in contest debating and everywhere else. This case is also cumulative, adding "repairs" to "defense" and "refutation."

**4. Counter proposition.** The most radical case possible for a negative is that of a counter proposition. This is admitting that there is a situation which demands remedy, admitting a cause for action, but advocating a different remedy. The counter proposition is the most daring and radical case. There are two principles that must always be lived up to in this case: (a) *The counter proposition must be stated with perfect clearness.* The negative has to take the burden of proof on this proposition, and for safety and clearness the proposition must be carefully worded and stated. (b) *A counter proposition must be counter.* It must be inconsistent with the proposition of the affirmative. If the affirmative can say, "We have no objection to the theory proposed by the negative, but it does not answer our case," then the counter proposition is useless. It must, in order to be any good, be antagonistic to that which the affirmative case is advocating. It is an "affirmative defense" in legal phrase, and must effectively negative the affirmative, as the "affirmative defense" of insanity is a complete negative in a murder trial. Here the defense takes the burden of proof and has to prove insanity, while the prosecution takes the viewpoint of the presumption of sanity, and becomes for the time a negative. This situation must be paralleled in general argumentation when we are using a counter proposition.

It is the duty of the negative *to clash* with the affirmative, therefore if the counter proposition is such that the affirmative can accept it the negative is responsible for the failure to meet. It is not enough that the counter proposition be different; it must be *vitally inconsistent* with the affirmative plan.

**G. Personal attitude and bearing.** Personality counts for a great deal in debate, and problems in personal bearing and personal attitude suggest themselves generally throughout the whole course of the debate. It is deemed well, therefore, to present here, before taking up the different parts of the debate, certain considerations and illustrations of personal attitude and bearing in debate.

**1. The personal tone** to be cultivated in debate is a serious matter, and a matter concerning which many flagrant mistakes are made. The personal element in debate is large. There the speaker usually stands as the immediate sponsor for all that he says and does; he is an advocate, personally responsible for every opinion he advances: the man and the cause are inextricably bound together. This condition of affairs has two results; the first is, that the audience will be greatly influenced by the personality of the speaker; the second, that there is a temptation to attack an opponent for his personality as well as for the principles he advocates. The two main purposes of a debater are to win sympathy for himself and his cause and to discountenance his opponent and the opposing cause. But unfortunately these two purposes may conflict with each other. Sarcasm, ridicule, and even personalities are undoubtedly admissible and helpful, under certain circumstances and when properly handled, in discrediting an opponent; but inappropriately introduced or improperly handled, they are as harmful in discrediting the man who uses them. These are dangerous weapons, treacherously two-edged: a blow well directed will cut and maim an enemy, but a slip or a blunder will surely turn the blow against its author. With respect to personalities, i. e., attacks on the

character or actions of a man, Shakespeare offers a good motto:—

> ". . . . Beware
> Of entrance to a quarrel; but, being in,
> Bear't that the opposed may beware of thee."

An audience always sympathizes with the man who sticks to the question and treats his "friends of the other side" with courtesy and good humor; if a case cannot be won on its merits, rarely can it be won by resort to personalities. On the other hand, an audience invariably respects a man who can defend himself, and who has in him the spirit of fight that resents a foul blow. A debater must never give ground, even if his opponent resorts to weapons that he himself scorns to use. In repelling such a personal attack there is one temptation,—the temptation to answer abuse with abuse. The man who has the quarrel forced on him has the sympathy of the audience at the start, and, if he is wise, he will take care to retain that sympathy by keeping his dignity and self-control. If he descends to the level chosen by his assailant, and combats poison with poison, he has thrown away his advantage and must fight on even terms. A model of personal tone may be found in Lincoln's conduct of his debate with Douglas. Fully to appreciate his good-humored self-control and his simple, but resolute, dignity, requires the reading of the speeches of Senator Douglas, filled as they are with misrepresentation and personal abuse. In his speech at Springfield, July 17, Mr. Lincoln said:—

"Having made that speech with the most kindly feeling toward Judge Douglas, as manifested therein, I was gratified when I found that he had carefully examined it and had detected no error of fact, nor any inference against him, nor any misrepresentations, of which he thought fit to complain. In neither of the two speeches I have mentioned did he make any such complaint. I will thank any one who will inform me that he, in his speech to-day, pointed out anything I had stated, respecting him, as being erroneous. I

presume there is no such thing. I have reason to be gratified that the care and caution used in that speech left it so that he, most of all others interested in discovering error, has not been able to point out one thing against him which he could say was wrong. He seizes upon the doctrines he supposes to be included in that speech, and declares that upon them will turn the issue of this campaign. He then quotes, or attempts to quote, from my speech. I will not say that he wilfully misquotes, but he does fail to quote accurately. His attempt at quoting is from a passage which I believe I can quote accurately from memory. I shall make the quotation now, with some comments upon it, as I have already said, in order that the judge shall be left entirely without excuse for misrepresenting me. I do so now, as I hope, for the last time. I do this in great caution, in order that if he repeats his misrepresentations, it shall be plain to all that he does so wilfully. If, after all, he still persists, I shall be compelled to reconstruct the course I have marked out for myself, and draw upon such humble resources as I have for a new course, better suited to the real exigencies of the case. I set out, in this campaign, with the intention of conducting it strictly as a gentleman, in substance at least, if not in the outside polish. The latter I shall never be, but that which constitutes the inside of a gentleman I hope I understand, and am not less inclined to practise than others. It was my purpose and expectation that this canvass would be conducted upon principle, and with fairness upon both sides, and it shall not be my fault if this purpose and expectation shall be given up. [1]

Later, in his opening speech in the sixth joint debate, at Quincy, October 13, he said:—

"He reminds me of the fact that he entered upon this canvass with the purpose to treat me courteously; that touched me somewhat. It sets me thinking. I was aware, when it was first agreed that Judge Douglas and I were to have these seven joint discussions, that they were the successive acts of a drama—perhaps I should say, to be enacted not merely in the face of audiences like this, but in the face of the nation, and to some extent by my relation to him, and not from anything in myself, in the face of the world;

[1] *Lincoln-Douglas Debates*, p. 58.

and I am anxious that they should be conducted with dignity and in the good temper which should be befitting the vast audience before which it was conducted. But when Judge Douglas got home from Washington and made his first speech in Chicago, the evening afterward I made some sort of reply to it. His second speech was made at Bloomington, in which he commented upon my speech at Chicago, and said that I had used language ingeniously contrived to conceal my intentions, or words to that effect. Now, I understand that this is an imputation upon my veracity and candor. I do not know what the Judge understood by it; but in our first discussion at Ottawa he led off by charging a bargain, somewhat corrupt in character, upon Trumbull and myself—that we had entered into a bargain, one of the terms of which was that Trumbull was to abolitionize the old Democratic party, and I (Lincoln) was to abolitionize the old Whig party—I pretending to be as good an old-line Whig as ever. Judge Douglas may not understand that he implicated my truthfulness and my honor when he said I was doing one thing and pretending another; and I misunderstood him if he thought he was treating me in a dignified way, as a man of honor and truth, as he now claims he was disposed to treat me. Even after that time, at Galesburgh, when he brings forward an extract from a speech made at Charleston, to prove that I was trying to play a double part—that I was trying to cheat the public, and get votes upon one set of principles at one place and upon another set of principles at another place—I do not understand but that he impeached my honor, my veracity, and my candor, and because *he* does this, I do not understand that I am bound, if I see a truthful ground for it, to keep my hands off him. As soon as I learned that Judge Douglas was disposed to treat me in this way, I signified in one of my speeches that I should be driven to draw upon whatever of humble resources I might have to adopt a new course with him. I was not entirely sure that I should be able to hold my own with him, but I at least had the purpose made to do as well as I could upon him; and now I say that I will not be the first to cry 'hold.' I think it originated with the Judge, and when he quits, I probably will. But I shall not ask any favors at all. He asks me, or rather he asks the audience, if I wish to push this matter to the point of personal difficulty. I tell him, no. He did not make a mistake in one of his early speeches, when he called me an 'amiable' man,

though perhaps he did when he called me an 'intelligent' man. It really hurts me very much to suppose that I have wronged anybody on earth. I again tell him, no! I very much prefer, when this canvass shall be over, however it may result, that we at least part without any bitter recollections of personal difficulties.

"The Judge, in his concluding speech at Galesburg, says that I was pushing this matter to a personal difficulty, to avoid the responsibility for the enormity of my principles. I say to the Judge and this audience now, that I will again state our principles as well as I hastily can in all their enormity, and if the Judge hereafter chooses to confine himself to a war upon these principles, he will probably not find me departing from the same course." [1]

With these models of personal dignity contrast the following extract from the speech by Senator Pettit in the debate in the Senate on the Fugitive Slave Law, June 26, 1854:—

"Now, sir, to give this clause of the Declaration of Independence any other construction than that which I have given it, is an evident, a self-evident, a palpable lie. What is the language? That 'all men are created equal.' Are they created equally tall, equally broad, equally long, equally short? Are they created politically equal? Are they created physically equal? Are they created mentally equal? Are they created morally equal? . . . I ask the chair, then, whether the Senator from Massachusetts (Mr. Sumner), with his odium on his lips, is the equal of his revolutionary sires? Is he the equal of Adams, of Hancock, of Warren, who was the first martyr in the great cause of liberty, of freedom, and of union? Is he the equal of these men? I had rather ask you, Mr. President, for I think you would answer 'no,' and he might answer 'yes.' . . . I ask that Senator, then, or I ask you, sir, whether that Senator is the equal of the late lamented Daniel Webster, who preceded him here long years ago? . . . I believe as a mere mental man—and I speak of him in no other capacity—Webster had not his equal on this continent, if he had in Europe or on any other continent. Is that Senator his equal? He might as well say that the jackal is the equal of the lion, or that the buzzard is the equal of the eagle.

"When you, sir (addressing Mr. Sumner) find no man beneath

[1] *Lincoln-Douglas Debates*, p. 196.

you; when those who are near you—your own class of men—can find no man beneath you; when you shall claim as your equal the man who rolls in the gutter, whom God has deprived in his own organization and creation of all mental power and capacity; when you shall claim that he who wallows in the gutter with the vilest and most worthless is your equal, then your interpretation of the doctrine is true. Let me go farther. If the Almighty ever intended to create the Senator the equal with the mighty and lamented Webster, I must say that he made a gross blunder and a most egregious mistake. . . . Sir, I am inclined to believe that, in a moral point of view, that Senator cannot find one beneath himself, taking his own declaration to-day. He who will swear here in this body, appealing to God for the truth of what he says, to support the Constitution of the Union, and then boldly proclaim that he will not do it, has sunk, in my estimation, to a depth of humiliation and degradation which it would not be enviable for the veriest serf or the lowest of God's creatures to occupy. It may be in that point of view the Senator regards all others as his equal; but there are some who are not willing to regard that Senator as their equal, and who will never be coerced into any such admission." [1]

**2. Self-control.** The difference between these two speeches is the difference between gentlemanly self-control and coarse vituperation. A debater must never allow himself, no matter how great the provocation, to be carried over the bounds that confine the gentleman; coarseness, even though it appear but for a moment, is always harmful. Coarseness in debate is most often a matter of loss of temper. A man of low character may be expected to show forth his nature at any time; but for any high-minded man, the thing that usually brings him to grief is the loss of his temper. Good humor is a great asset in any controversy. He who loses his temper in a debate, loses his best defense. One can be indignant, offended, disgusted, without loss of temper. Any loss of control, any exhibition of anger and peevishness is almost sure to detract. A debater should learn how to be "severe and parliamentary at the same time."

[1] *Congressional Debates*, Vol. 28, Part II, p. 1518.

**3. Sarcasm and ridicule.** Good humor is even more necessary if one is to use sarcasm or ridicule. The line must not be drawn so strictly against these weapons as against personalities pure and simple. Sarcasm in a skilful hand is a formidable weapon, and ridicule can often win a point where nothing else would avail. But it must always be remembered that these are light arms. They are fine-wrought, flexible foils, and they must be wielded with a light hand. They are not suited for the slashing and cutting of broad-sword play. To fence with them a man must be quick, light of hand, and, above all, cool and self-controlled. Some men cannot use sarcasm and ridicule at all, and no man can afford to use them carelessly. Ill temper in the use of these weapons is both careless and clumsy. It always results in a wild aim and looks like foul play. Sarcasm and ridicule are most effective when directed against conceit and affectation. A speaker who allows his conceit to rise to the surface, or who assumes a tone of grandiloquence or bombast, has exposed a weak spot in his armor. And there is no weapon that will so readily find the spot and strike through it as one of these light side-arms of forensic combat. The following is one of the best illustrations of the use of ridicule that can be found in American oratory. It is so interesting and so worthy of study with respect to its general tone, its vivid rhetoric, and its telling choice of figures of speech as to justify the giving of the passage nearly in full. A certain General Crary, on February 14, 1840, in the debate in the House on the Cumberland Road Bill, attacked General William Henry Harrison for alleged deficiencies as a military commander, severely criticising his conduct of the battle of Tippecanoe and of various other campaigns. Thomas Corwin of Ohio replied in a speech of which the following is a part. Mr. Crary was so overwhelmed that John Quincy Adams, a few days after, referred to him as "the late Mr. Crary."

"In all other countries, and in all former times, a gentleman who would either speak or be listened to on the subject of war, involving

subtle criticisms and strategy, and careful reviews of marches, sieges, battles, regular and casual, and irregular onslaughts, would be required to show, first, that he had studied much, investigated fully, and digested the science and history of his subject. But here, sir, no such painful preparation is required; witness the gentleman from Michigan! He has announced to the House that he is a militia general on the peace establishment! That he is a lawyer we know, tolerably well read in Tidd's 'Practice' and Espinasse's 'Nisi Prius.' These studies, so happily adapted to the subject of war, with an appointment in the militia in time of peace, furnish him at once with all the knowledge necessary to discourse to us, as from high authority, upon all the mysteries of the 'trade of death.' Again, Mr. Speaker, it must occur to every one, that we, to whom these questions are submitted and these military criticisms are addressed, being all colonels at least, and most of us, like the gentleman himself, brigadiers, are, of all conceivable tribunals, best qualified to decide any nice points connected with military science. I hope the House will not be alarmed with the impression that I am about to discuss one or the other of the military questions now before us at length, but I wish to submit a remark or two, by way of preparing us for a proper appreciation of the merits of the discourse we have heard. I trust we are all brother-officers, that the gentleman from Michigan, and the two hundred and forty colonels or generals of this honorable House, will receive what I have to say as coming from an old brother in arms, and addressed to them, in a spirit of candor,

> " 'Such as becometh comrades free,
> Reposing after victory.'

"Sir, we all know the military studies of the military gentleman from Michigan before he was promoted. I take it to be beyond a reasonable doubt that he had perused with great care the title page of 'Baron Steuben.' Nay, I go further; as the gentleman has incidentally assured us that he is prone to look into musty and neglected volumes, I venture to assert, without vouching in the least from personal knowledge, that he has prosecuted his researches so far as to be able to know that the rear rank stands right behind the front. This, I think, is fairly inferable from what I understood him to say of the two lines of encampment at Tippecanoe. Thus we see, Mr. Speaker, that the gentleman from Michigan, being a militia

general, as he has told us, his brother officers, in that simple statement has revealed the glorious history of toils, privations, sacrifices, and bloody scenes, through which, we know from experience and observation, a militia officer, in time of peace, is sure to pass. We all in fancy now see the gentleman from Michigan in that most dangerous and glorious event in the life of a militia general on the peace establishment—a parade day! That day, for which all the other days of his life seem to have been made. We can see the troops in motion—umbrellas, hoes, and axe-handles, and other like deadly implements of war, overshadowing all the fields, when lo! the leader of the hosts approaches!

" 'Far off his coming shines!'

His plume, which, after the fashion of the great Bourbon, is of awful length, reads its baleful history in the bereaved necks and bosoms of forty neighboring henroosts. Like the great Suwaroff, he seems somewhat careless in forms or points of dress; hence his epaulettes may be on his shoulders, back, or sides, but still gleaming, gloriously gleaming in the sun. Mounted he is, too, let it not be forgotten. Need I describe to the colonels and generals of this honorable House the steeds which heroes bestride on these occasions? No! I see the memory of other days is with you. You see before you the gentleman from Michigan, mounted on his crop-eared, bushy-tailed mare, the singular obliquity of whose hinder limbs is best described by that most expressive phrase, 'sickle hams'—for height just fourteen hands, 'all told'; yes, sir, there you see his 'steed that laughs at the shaking of the spear'; that is his war horse, 'whose neck is clothed in thunder.' Mr. Speaker, we have glowing descriptions in history of Alexander the Great and his war horse Bucephalus, at the head of the invincible Macedonian phalanx; but sir, such are the improvements of modern times, that every one must see that our militia general, with his crop-eared mare with bushy tail and sickle hams, would totally frighten off a battle field a hundred Alexanders. But, sir, to the history of the parade day. The general, thus mounted and equipped, is in the field and ready for action. On the eve of some desperate enterprise, such as giving order to shoulder arms, it may be, there occurs a crisis, one of those accidents of war, which no sagacity could foresee nor prevent. A cloud rises and passes over the sun! Here is an

occasion for the display of that greatest of all traits in the history of a commander—the tact which enables him to seize upon and turn to good account unlooked-for events as they arise. Now for the caution wherewith the Roman Fabius foiled the skill and courage of Hannibal! A retreat is ordered, and troops and general, in a twinkling, are found safely bivouacked in a neighboring grocery." [1]

With respect to all three of the methods mentioned above, viz., personalities, sarcasm, and ridicule, it is to be remarked that they are only occasional weapons. They are not substitutes for proof or for the substance of argument. They are merely auxiliaries. It is often easier to malign or laugh at an opponent than to answer him, but it does not accomplish the same end.

**4. Personal inconsistency.** The charge of personal insistency belongs in debate more truly than elsewhere. As we have already seen, in debate the speakers generally stand as personally responsible advocates of the opinions they espouse. Consequently, if it can be shown that a speaker is inconsistent in his opinions, the shot often strikes home. If it is proved that a speaker upholds views that he formerly condemned, or that his actions belie his words, his motives are clearly impeached and his sincerity or veracity is at least open to suspicion. This charge may be used as a means of ridicule, making light of the pretended earnestness of an opponent, or it may be, used as the foundation of a serious charge of fraud or hyprocrisy. Lincoln used it in his speech at Chicago, July 10, to ridicule an excess of oratorical enthusiasm on the part of Senator Douglas. Speaking of the Dred Scott Decision, he said:—

"The sacredness that Judge Douglas throws around this decision, is a degree of sacredness that has never been before thrown around any other decision. I have never heard of such a thing. . . . But Judge Douglas will have it that all hands must take this extraor-

[1] Hardwicke, *History of Oratory and Orators*, pp. 368–371.

dinary decision, made under these extraordinary circumstances, and give their vote in Congress in accordance with it, yield to it, and obey it in every possible sense. Circumstances alter cases. Do not gentlemen here remember the case of that same Supreme Court, some twenty-five or thirty years ago, deciding that a National Bank was constitutional? I ask if somebody does not remember that a National Bank was declared to be constitutional? Such is the truth, whether it be remembered or not. The Bank charter ran out, and a recharter was granted by Congress. That recharter was laid before General Jackson. It was urged upon him, when he denied the constitutionality of the Bank, that the Supreme Court had decided that it was constitutional; and that General Jackson then said that the Supreme Court had no right to lay down a rule to govern a coördinate branch of the Government, the members of which had sworn to support the Constitution—that each member had sworn to support that Constitution as he understood it. I will venture here to say, that I have heard Judge Douglas say that he approved of General Jackson's act. What has now become of all his tirade about 'resistance to the Supreme Court'?" [1]

Senator Hayne, in his second speech on the Foote Resolution, used this device differently, rather making it the foundation of a serious charge of inconsistency and apostasy:—

"I am not at all surprised, however, at the aversion of the gentleman to the very name of tariff. I doubt not that it must always bring up some very unpleasant recollections to his mind. If I am not greatly mistaken, the Senator from Massachusetts was a leading actor at a great meeting got up in Boston in 1820 against the tariff. It has generally been supposed that he drew up the resolutions adopted by that meeting, denouncing the tariff system as unequal, oppressive, and unjust, and, if I am not much mistaken, denying its constitutionality. Certain it is that the gentleman made a speech on that occasion in support of those resolutions, denouncing the system in no very measured terms; and, if my memory serves me, calling its constitutionality in question. I regret that I have not

[1] *Lincoln-Douglas Debates*, pp. 20, 21.

been able to lay my hands on those proceedings, but I have seen them, and I cannot be mistaken in their character. At that time, sir, the Senator from Massachusetts entertained the very sentiments in relation to the tariff which the South now entertains. We next find the Senator from Massachusetts expressing his opinion on the tariff as a member of the House of Representatives from the city of Boston in 1824. On that occasion, sir, the gentleman assumed a position which commanded the respect and admiration of his country. He stood forth the powerful and fearless champion of free trade. He met, in that conflict, the advocates of restriction and monopoly, and they 'fled from before his face.' With a profound sagacity, a fulness of knowledge, and a richness of illustration that has never been surpassed, he maintained and established the principles of commercial freedom on a foundation never to be shaken. . . . Then it was that he erected to free trade a beautiful and enduring monument, and 'inscribed the marble with his name.' It is with pain and regret that I now go forward to the next great era in the political life of that gentleman, when he was found upon the floor supporting, advocating, and finally voting for the tariff of 1828—that 'bill of abominations.' By that act, sir, the Senator from Massachusetts has destroyed the labors of his whole life, and given a wound to the cause of free trade, never to be healed. Sir, when I recollect the position which that gentleman once occupied, and that which he now holds in public estimation, in relation to this subject, it is not at all surprising that the tariff should be hateful to his ears. Sir, if I had erected to my own fame so proud a monument as that which the gentleman built in 1824, and I could have been tempted to destroy it with my own hands, I should hate the voice that should ring 'the accursed tariff' in my ears. I doubt not the gentleman feels very much in relation to the tariff as a certain knight did to 'instinct,' and with him would be disposed to exclaim—

"'Ah, no more of that Hal, and thou lov'st me.'" [1]

It is evident that in some kinds of debate this particular form of attack finds no place. In intercollegiate debate, or before a jury, it is rarely opportune, because the personal

[1] *Debates in Congress*, Vol. VI, Part I, p. 49. Gales and Seaton, Washington, 1830.

opinions of the speakers in these situations have little "to do with the case." The speakers are merely instruments of competition or of justice, in presenting whatever is to be said on either side of the question, and so are not open to personal attacks.

## CHAPTER 17

### THE MAIN SPEECHES

### OUTLINE

A. Main speeches and brief.
B. Preparatory practice.
C. Divisions of debate.
    1. The introduction.
        a. First affirmative.
        b. First negative.
            (I) Adapt to circumstances.
        c. Definitions.
        d. Issues.
        e. Partition.
    2. The discussion.
        a. Main heads.
        b. Repetition.
        c. Summaries and partitions.
        d. Asking questions.
            (I) To get definite answers.
            (II) To waste time.
            (III) To force into a dilemma.
    3. The conclusion.
        a. Strategy.
        b. Summary.
        c. Balanced summary.

**A. Main speeches and brief.** The main speeches in any debate should not be planned until after a complete brief of the case has been prepared. The brief should, of course, be *one*, not three, even if there are three speakers. This is true both of contest debates and actual debates in the affairs of life. There should be *one* complete brief of the case. Then this brief should be divided as seems best among

whatever number of speakers is to present the case. Each speaker should take his section and prepare an outline of it, and talk from the outline. *The brief should not be taken as the necessary outline of the case.* Speeches delivered from a good brief as an outline are apt to be wooden and tiresome.

**B. Preparatory practice.** The practice in preparation for contest debate should consist of numerous debates between opposing teams. The now almost universal plan of triangular debates makes this feasible, as each institution has a team on each side. Each team should try all possible schemes of attack and defense—always covering in some way or other the case as briefed, but using as many different kinds of *outlines* as can be invented. A speaker who is at all fluent and quick-witted should rarely even write a manuscript in preparation for a debate. He should debate from an outline as often as possible and learn to adapt his remarks to whatever form the discussion takes. Probably, if slow-minded and halting speakers must go into contest debates, they will have to write and memorize their arguments, but this is hardly worth calling debating, and should always be given little credit by judges of contest debates. In class work in debates no student should ever write a manuscript.[1] Briefs and outlines should be the only "paper basis" for class debates.

**C. Divisions of the debate.** The debate should be one—should have absolute unity. It should be fundamentally the same if delivered by one or two or three speakers. We, therefore, discuss the main speeches here from the standpoint of introduction, discussion, and conclusion, not from that of first, second, and third speaker. If there are three speakers, the first usually gives the introduction and part of the discussion, the second more of the discussion, and the third the rest of the discussion and the conclusion. The situa-

[1] Please note that this is not saying that practice in written argumentation is not valuable. It is; and should be indulged in before students take a course in debating. It is not the best preparation for a *debate.*

tion will not be essentially different with one or two or even four speakers on a side.

### 1. The Introduction

**a. First affirmative.** In a debate to have the first speech is a privilege. This privilege, which arises from the influence of the speech upon the remainder of the debate, is twofold. First, the speaker has an opportunity to make the first impression on the audience; and, secondly, he has an opportunity to direct the course of the debate. This, then, is the duty of a speaker opening a debate, whom, for convenience, we will call the "first speaker on the affirmative," viz, to win a fair hearing for himself and his side of the proposition. Positive persuasion to win sympathy is usually dangerous here, but what we have called negative persuasion is of the utmost importance. Avoid giving an unfavorable impression. Be clear, calm, reasonable, fair to opponents, accurate and thorough in explanations. In this manner explain the case, set forth the issues, accept the burden of proof, outline your case as far as seems advisable, and then start the argument. It often happens in debate that there is one method of analyzing and discussing the question that is advantageous to the affirmative, and another method that is advantageous to the negative. Consequently, to force an opponent to discuss the question according to your plan, to compel him to fight you on your own grounds, is a point won. To return to a military comparison, in war it is a great advantage to be able to have the choice of position; and this advantage generally goes to the army that is first on the field. A well-prepared, aggressive first speaker can so explain the origin and history of the question, and so present the issues, as to compel his opponent to accept his analysis of the case, provided of course that he presents a fair and legitimate interpretation, but a weak or apologetic opening affirmative may well miss this opportunity, and allow the negative practically to control the discussion. By such an opening

the affirmative can lose its chief advantage over the negative. The affirmative should remember that the proposition, and the burden of proving it, is theirs; it is their case. They have a right (within the limits of legitimate interpretation), to establish it as they see fit. To allow the negative to take this opportunity away from them is an indication of great incompetence. Rhetorically, an opening speaker should use a graceful and finished, but never ornate or "high-flown," diction. His general tone should be conciliatory. Above all, his exposition should be lucid and interesting, avoiding fine distinctions and technicalities in explaining the question.

**b. First negative.** The duty of the speaker in opposition, who may be called the "first speaker on the negative," is clear. He may adopt the same tone and rhetorical style as the opening speaker,—clear, smooth, and conciliatory; or he may under some circumstances, take a different attitude, an attitude of open belligerency from the start. But he must, whatever the method, attempt to counteract the influence of his opponent who has introduced the debate. This is a difficult task, calling for tact and aggressive force. Sometimes, though not often in contest debating, his opponent will have excited the audience against him, or will have won their sympathy for himself; then the speaker must counteract these effects by the use of sarcasm, wit, invective, or whatever resources he may command. If the opening speaker has seemed to establish an interpretation of the question unfavorable to the negative, he must offer battle at the very start, and overthrow this interpretation by showing that, "the preceding speaker has misread history and misunderstood the facts," that he has "failed to present the real issues involved," or "unfortunately failed to grasp the real question," etc. Whatever the situation he finds left by his opponent, he must adapt himself to it and attempt to change it to his own advantage. He must take matters as he finds them. The one thing that he *must not do* is to ignore what has been said. He must not take the platform and start

his case as if nothing had been said. He is the *second* speaker in the discussion, and unless he can adapt his speech to what has been said, he is a very poor debater, whatever else he may be. At such a time, a lecture or an essay is worse then nothing. The whole value of the introduction of a first speaker on the negative, depends on its adaptation to the circumstances. Somehow he must recognize the interpretation of the first affirmative and either accept it as satisfactory, or challenge it as unsound. If the latter, he must proceed at once to show why unsound and to explain the interpretation of the negative.

An illustration directly in point may be taken from the famous Lincoln-Douglas debates of 1858. The circumstances of this controversy are well known. It occurred during the most intense period of the slavery struggle, just before the opening of the War of the Rebellion. The country was stirred to a passionate interest, by the fight in Congress over the admission of Kansas into the Union, by the conflict between slavery and anti-slavery factions in that state, and by the Dred Scott decision, just declared by the Supreme Court. Lincoln and Douglas were rival candidates for an Illinois senatorship. They were recognized representatives of the two great political factions of the North, and the whole country soon became the spectators of the contest. Douglas, in his opening speech at Chicago, July 9, 1858, had mentioned, "An unholy and unnatural alliance," and had advocated popular sovereignty, "the right of the people of each territory to decide for themselves whether slavery shall or shall not exist within their limits." In Lincoln's reply he "turned the tables" on Judge Douglas in a typical Lincoln introduction leading up to the main issue.

"My fellow-citizens: On yesterday evening, upon the occasion of the reception given to Senator Douglas, I was furnished with a seat very convenient for hearing him, and was otherwise very courteously treated by him and his friends, and for which I thank him and

them. During the course of his remarks my name was mentioned in such a way as, I suppose, renders it at least nor improper that I should make some sort of reply to him. I shall not attempt to follow him in the precise order in which he addressed the assembled multitude upon that occasion, though I shall perhaps do so in the main.

"There was one question to which he asked the attention of the crowd, which I deem of somewhat less importance—at least of propriety for me to dwell upon—than the others, which he brought in near the close of his speech, and which I think it would not be entirely proper for me to omit attending to, and yet if I were not to give some attention to it now, I should probably forget it altogether. While I am upon this subject, allow me to say that I do not intend to indulge in that inconvenient mode sometimes adopted in public speaking, of reading from documents; but I shall depart from that rule so far as to read a little scrap from his speech which notices this first topic of which I shall speak—that is, provided I can find it in the paper.

" 'I have made up my mind to appeal to the people against the combination that has been made against me! the Republican leaders have formed an alliance, an unholy and unnatural alliance, with a portion of unscrupulous federal office-holders. I intend to fight that allied army wherever I meet them. I know they deny the alliance, but yet these men who are trying to divide the Democratic party for the purpose of electing a Republican Senator in my place, are just as much the agents and tools of the supporters of Mr. Lincoln. Hence I shall deal with this allied army just as the Russians dealt with the allied forces at Sebastopol—that is, the Russians did not stop to inquire, when they fired a broadside, whether it hit an Englishman, a Frenchman, or a Turk. Nor will I stop to inquire, nor shall I hesitate, whether my blows shall hit these Republican leaders or their allies, who are holding the federal offices and yet acting in concert with them.'

"Well, now, gentlemen, is not that very alarming? Just to think of it! right at the outset of his canvass, I, a poor, kind, amiable gentleman, I am to be slain in this way. Why, my friend, the Judge, is not only, as it turns out, not a dead lion, nor even a living one—he is the rugged Russian Bear!

"But if they will have it—for he says that we deny it—that

there is any such alliance, as he says there is—and I don't propose hanging very much upon this question of veracity—but if he will have it that there is such an alliance—that the Administration men and we are allied and we stand in the attitude of English, French and Turk, he occupying the position of the Russians, in that case, I beg that he will indulge us while we barely suggest to him that these allies took Sebastopol. . . .

"Popular sovereignty! everlasting popular sovereignty! Let us for a moment inquire into this vast matter of popular sovereignty," etc.[1]

**(I) Adaptation to circumstances.** We have said, that the value of the introduction of a first speaker on the negative depends upon the adaptation to circumstances. This is also true of the introduction to any speech, after the opening speech. The very essence of debate, as contrasted with simple written argumentation, consists in seeing situations and meeting them. A *series of arguments* on a proposition does not necessarily constitute a *debate.* A debater who demonstrates and argues regardless of what the opposition is doing, is like a fencer who lunges right and left without looking at his opponent. Very seldom is it safe to enter the discussion without taking notice of what has been said and done by preceding speakers, or without laying some foundation of sympathy and understanding with the audience.

For example, contrast the two following introductions. They are both from the same man, Senator Robert Y. Hayne of South Carolina. They were both delivered in the same debate, the debate in the Senate in 1830, on the famous Foote Resolution. But there is this difference: the first is the introduction to Mr. Hayne's opening speech; the second is part of the introduction *to a second speech,* delivered at a later stage of the discussion, after he had been attacked and his position assailed by such senators as Benton and Webster. The contrast shows the difference in tone and method adapted to the different situations.

[1] *Lincoln-Douglas Debates,* pp. 14, 15.

Mr. Hayne's opening speech began as follows:—

"It has been said, and correctly said, by more than one gentleman, that resolutions of inquiry were usually suffered to pass without opposition. The parliamentary practice in this respect was certainly founded in good sense and sound policy, which regarded such resolutions as intended merely to elicit information, and therefore entitled to favor. But I cannot give my assent to the proposition so broadly laid down by some gentlemen, that because nobody stands committed by a vote for inquiry, that, therefore, every resolution proposing an inquiry, no matter on what subject, must pass almost as a matter of course, and that, to discuss or oppose such resolutions, is unparliamentary. The true distinction seems to be this: where information is desired as the basis of legislation, or where the policy of any measure, or the principles it involves, are really questionable, it was always proper to send the subject to a committee for investigation; but where all the material facts are already known, and there is fixed and settled opinion in respect to the policy to be pursued, inquiry was unnecessary, and ought to be refused. No one, he thought, could doubt the correctness of the position assumed by the gentleman from Missouri, that no inquiry ought ever to be instituted as to the expediency of doing 'a great and acknowledged wrong.' I do not mean, however, to intimate an opinion that such is the character of this resolution. The application of these rules to the case before us will decide my vote, and every Senator can apply them for himself to the decision of the question, whether the inquiry now called for should be granted or refused. With that decision, whatever it may be, I shall be contented.

"I have not risen, however, Mr. President, for the purpose of discussing the propriety of instituting the inquiry recommended by the resolution, but to offer a few remarks on another and much more important question, to which gentlemen have alluded in the course of this debate—I mean the policy which ought to be pursued in relation to the public lands. Every gentleman who has had a seat in Congress for the last two or three years, or even for the last two or three weeks, must be convinced of the great and growing importance of this question. More than half of our time has been taken up with the discussion of propositions connected with the

public lands; more than half of our acts embrace provisions growing out of this fruitful source. Day after day the changes are rung on this topic, from the grave inquiry into the right of the new States to the absolute sovereignty and property in the soil, down to the grant of a preëmption of a few quarter sections to actual settlers. In the language of a great orator in relation to another 'vexed question,' we may truly say, 'that year after year we have been lashed round the miserable circle of occasional arguments and temporary expedients!' No gentleman can fail to perceive that this is a question no longer to be evaded; it must be met—fairly and fearlessly met. A question that is pressed upon us in so many ways; that intrudes in such a variety of shapes; involving so deeply the feelings and interests of a large portion of the Union; insinuating itself into almost every question of public policy, and tinging the whole course of our legislation, cannot be put aside or laid asleep. We cannot long avoid it; we must meet and overcome it, or it will overcome us. Let us, then, be prepared to encounter it in a spirit of wisdom and of justice, and endeavor to prepare our own minds and the minds of the people for a just and enlightened decision. The object of the remarks I am about to offer is merely to call public attention to the question, to throw out a few crude and undigested thoughts, as food for reflection, in order to prepare the public mind for the adoption, at no distant day, of some fixed and settled policy in relation to the public lands. I believe that, out of the western country, there is no subject in the whole range of our legislation less understood, and in relation to which there exists so many errors, and such unhappy prejudices and misconception.

"There may be said to be two great parties in this country, who entertain very opposite opinions in relation to the character of the policy which the Government has heretofore pursued, in relation to the public lands, as well as to that which ought, hereafter, to be pursued." [1]

The introduction to his second speech, in part, was:—

"When I took occasion, two days ago, to throw out some ideas with respect to the policy of the Government in relation to the public lands, nothing certainly could have been farther from my

[1] *Debates in Congress*, Vol. VI, Part I, pp. 21–32.

thoughts than that I should be compelled again to throw myself upon the indulgence of the Senate. Little did I expect to be called upon to meet such an argument as was yesterday urged by the gentleman from Massachusetts (Mr. Webster). Sir, I questioned no man's opinions; I impeached no man's motives; I charged no party, or State, or section of country, with hostility to any other; but ventured, I thought in a becoming spirit, to put forth my own sentiments in relation to a great national question of public policy. Such was my course. The gentleman from Missouri (Mr. Benton), it is true, had charged upon the Eastern States an early and continued hostility towards the West, and referred to a number of historical facts and documents in support of that charge. Now, sir, how have these different arguments been met? The honorable gentleman from Massachusetts, after deliberating a whole night upon his course, comes into this chamber to vindicate New England, and, instead of making up his issue with the gentleman from Missouri, on the charges which he had preferred, chooses to consider me as the author of those charges, and, losing sight entirely of that gentleman, selects me as his adversary, and pours out all the vials of his mighty wrath upon my devoted head. Nor is he willing to stop there. He goes on to assail the institutions and policy of the South, and calls in question the principles and conduct of the State which I have the honor to represent. When I find a gentleman of mature age and experience, of acknowledged talents and profound sagacity, pursuing a course like this, declining the contest offered from the West, and making war upon the unoffending South, I must believe, I am bound to believe, he has some object in view that he has not ventured to disclose. Why is this? Has the gentleman discovered in former controversies with the gentleman from Missouri that he is overmatched by that Senator? And does he hope for a more easy victory over a more feeble adversary? Has the gentleman's distempered fancy been disturbed by gloomy forebodings of 'new alliances to be formed,' at which he hinted? Has the ghost of the murdered Coalition come back, like the ghost of Banquo, to 'sear the eye-balls' of the gentleman, and will it not 'down at his bidding'? Are dark visions of broken hopes, and honors lost forever, still floating before his heated imagination? Sir, if it be his object to thrust me between the gentleman from Missouri and himself, in order to rescue the East from the contest

it has provoked with the West, he shall not be gratified. Sir, I will not be dragged into the defence of my friend from Missouri. The South shall not be forced into a conflict not its own. The gentleman from Missouri is able to fight his own battles. The gallant West needs no aid from the South to repel any attack which may be made on them from any quarter. Let the gentleman from Massachusetts controvert the facts and arguments of the gentleman from Missouri—if he can; and if he win the victory, let him wear its honors: I shall not deprive him of his laurels." [1]

**c. Definition of terms in the introduction** is especially important in debate. We have seen that the purpose of all preliminary definition is to enable the reader or hearer readily to comprehend the terms used in the discussion. In written argumentation, if the reader runs across a word or phrase that he does not understand, he can pause and think it over till he does understand, or he can even lay aside the essay for a time until he can find out the meaning elsewhere. But in spoken discourse it is different. The audience must catch the meaning of every phrase and every idea as it falls from the lips of the speaker, or they will not get it at all, and the effect of the whole argument will be lost. Consequently, the greatest care must be taken that no term is left ambiguous. The methods of defining have already been explained; it only needs to be emphasized that *definition is more important in debate than in any other form of discussion.*

**d. Issues in debate.** For a similar reason the issues and explanation of the question are important. And there is this additional reason for giving attention to the issues: in debate a great multiplicity of facts and arguments is thrown together in a short time; and an audience may easily become perplexed in the midst of such confusion, unless they are given some standard of judgment. *An audience cannot see the force or bearing of arguments, unless they understand what are the vital points in the question.* If they know the issues, they can appreciate the meaning of any important fact that is pre-

[1] *Debates in Congress,* Vol. VI, Part I, p. 43.

sented, and they will be likely to remember it; but an audience, left free to judge things according to their own previous knowledge and preconceived opinions, cannot be relied on to judge rightly as to what is worth remembering. For these reasons the *issues should always be presented in the introduction in some form*, and further, it is wise to repeat them in various forms in the discussion, keeping them always clearly before the audience.

**e. Partition in debate.** The desirability of the partition is always a matter of judgment, depending entirely on the circumstances. It always contributes to clearness; but it is sometimes unwise to reveal in detail to the enemy the line of attack you intend to pursue. *There is no ethical consideration that demands a full statement of plan at the very outset.* When to divulge matter should be determined by the circumstances. The interests of the audience and of your own side should determine—not the interests of your opponents. The only thing demanded by ethics and good sportsmanship is that you give your opponents *time to answer* each point, provided they are prepared. You are under no obligation to give them *time to prepare an answer.* This would only encourage lazy and careless preparation. Each side should be ready for anything the other side can say—and should be given a fair chance to show they are ready. Sometimes a distinct partition is impossible; for example, in the Lincoln-Douglas debates a definite partition would have been awkward and inappropriate, for no particular question was under discussion, the debates being informal and extemporaneous, and really but a running fight. In general a partition of some kind is desirable, unless there is some objection to it, such as those suggested above. A partition need not be formal in character; it does not necessarily imply a division of the proof into three, four, or five parts, stating exactly what is to be proved. The partition may be very cursory and informal, merely suggesting for the sake of clearness the general course to be followed in the discussion; for

example, in the following, taken from the introduction to Charles Sumner's speech in the Senate, May 19 and 20, 1856, on the "Bill for the Admission of Kansas into the Union," Mr. Sumner makes a partition, which adds greatly to the clearness and force of the speech, but which, at the same time, has no air of formality and reveals nothing of the character of the arguments to follow:—

"Such is the Crime and such the criminal which it is my duty to expose; and, by the blessings of God, this duty shall be done completely to the end. But this will not be enough. The Apologies, which, with strange hardihood are offered for the Crime, must be torn away, so that it shall stand forth without a single rag or fig-leaf to cover its vileness. And, finally, the True Remedy must be shown. The subject is complex in relations, as it is transcendent in importance; and yet, if I am honored by your attention, I hope to present it clearly in all its parts, while I conduct you to the inevitable conclusion that Kansas must be admitted at once, with her present Constitution, as a State of this Union, and give a new star to the blue field of our National Flag. And here I derive satisfaction from the thought that the cause is so strong in itself as to bear even the infirmities of its advocates; nor can it require anything beyond that simplicity of treatment and moderation of manner which I desire to cultivate. Its true character is such that, like Hercules, it will conquer just so soon as it is recognized.

"My task will be divided under three different heads: first, THE CRIME AGAINST KANSAS, in its origin and extent; secondly, THE APOLOGIES FOR THE CRIME; and, thirdly, THE TRUE REMEDY." [1]

### 2. The Discussion

**a. Main heads.** In drawing a brief for use in debate, particular care should be taken in the selection of the main heads. Not only should the question be divided accurately and logically, but also attention should be given to the *forms of statement of the headings*. These main headings are sure to be the objective points of the attack of the other side, and

[1] *Works of Charles Sumner*, Vol. IV, pp. 143, 144.

they must be made strong enough to stand the shock. If an opponent can force you to take back a phrase, or to acknowledge an exaggeration in any of your fundamental propositions, he has scored a point, and the audience will always give him credit for it, often more credit than he really deserves. Carelessness or rhetorical flourish must never be permitted to make a main heading say either more or less than exactly what is meant. Intrenchments are not built because they look well, but because they can be held against attack; main headings are not made because they sound well, but because they offer definite points of resistance to an opponent.

Senator Douglas, in the debates mentioned above, with his habitually bombastic style of oratory, made many wild charges and assertions. Often the point he aimed to establish was valid, but, through carelessness or over-excitement, he exaggerated. He had an able opponent, and every blunder and every exaggeration was laid bare, much to his discomfiture and humiliation. Lincoln, on the other hand, as he himself admitted in the discussion, prepared with sedulous care the statement of every important proposition he advanced. His propositions were attacked and his attitude was repeatedly misrepresented by Senator Douglas, but reply was difficult; he had only to read the exact words of his former speeches and reiterate his statements, thus at the same time reënforcing his own position and exposing the trickery of his opponent. For example, in the following selection Lincoln replies to such an attack on one of his fundamental propositions:—

"Out of this Judge Douglas builds up his beautiful fabrication—of my purpose to introduce a perfect, social, and political equality between the white and black races. His assertion that I made an 'especial objection' . . . to the decision (the Dred Scott decision) on this account is untrue in point of fact.

"Now, while I am upon this subject, and as Henry Clay has been alluded to, I desire to place myself in connection with Mr.

Clay as nearly right before this people as may be. I am quite aware what the Judge's object is here by all these allusions. He knows that we are before an audience, having strong sympathies southward by relationship, place of birth, and so on. He desires to place me in an extremely abolition attitude. He read upon a former occasion, and alludes without reading to-day, to a portion of a speech which I delivered in Chicago. In his quotations from that speech, as he has made them upon former occasions, the extracts were taken in such a way as, I suppose, brings them within the definition of what is called *garbling*—taking portions of a speech which, when taken by themselves, do not present the entire sense of the speaker as expressed at the time. I propose, therefore, out of that same speech to show how one portion of it which he skipped over (taking an extract before and an extract after) will give a different idea, and the true idea I intended to convey. . . .

"Allow me . . . briefly to present one extract from a speech of mine, more than a year ago, at Springfield, in discussing this very same question, soon after Judge Douglas took his ground that negroes were not included in the Declaration of Independence:—

" 'I think the authors of that notable instrument intended to include all men, but they did not mean to declare all men equal *in all respects*. They did not mean to say all men were equal in color, size, intellect, moral development, or social capacity. They defined with tolerable distinctness in what they did consider all men created equal—equal in certain inalienable rights, among which are life, liberty, and the pursuit of happiness. This they said, and this they meant. They did not mean to assert the obvious untruth, that all men were actually enjoying that equality, or yet, that they were about to confer it immediately upon them. In fact, they had no power to confer such a boon. They meant simply to declare the *right*, so that the *enforcement* of it might follow as fast as circumstances should permit.

" 'They meant to set up a standard maxim for free society which should be familiar to all: constantly looked to, constantly labored for, and even, though never perfectly attained, constantly approximated, and thereby constantly spreading and deepening its influence, and augmenting the happiness and value of life to all people, of all colors, everywhere.'

"There again are the sentiments I have expressed in regard to

the Declaration of Independence upon a former occasion—sentiments which have been put in print and read wherever anybody cared to know what so humble an individual as myself chose to say in regard to it." [1]

**b. Repetition.** Another evidence of the skill of these two debaters is found in the constant repetition by both, of sentences and phrases containing their main propositions. In speech after speech, and many times over in each speech, Senator Douglas repeated his cry of "popular sovereignty, the right of the people of a State to settle the question of slavery for themselves," and his demand for "obedience to the decision of the highest tribunal in the land, the Supreme Court." Lincoln we find reiterating with equal persistence his statements that "a house divided against itself cannot stand; this government cannot endure permanently half slave and half free"; that "slavery is wrong"; that "slavery must be put where it was put at the foundation of the government, in the course of ultimate extinction." It is well to bear in mind in preparing a case, the *desirability of this repetition* in oral debate. An audience cannot turn back to compare statements and refresh memory. The speaker must by various devices "keep his case up" clearly before the audience all the time. Repetition is one of the most serviceable of such devices. Every main heading should, as far as possible, be stated in such rhetorical form that it can be easily and forcibly repeated; it should be stated briefly and in clear and simple language. Sometimes it is effective to compress the idea into a single word or phrase; as, for illustration, Charles Sumner did in his speech in the Senate on the "Crime against Kansas," a speech referred to above:—

"And with this exposure I take my leave of the Crime against Kansas. Emerging from all the blackness of this Crime, where we seem to have been lost, as in a savage wood, and turning our back upon it, as upon desolation and death, from which, while others

[1] *Lincoln-Douglas Debates*, p. 224.

have suffered, we have escaped, I come now to THE APOLOGIES which the Crime has found. . . .

"They are four in number, and fourfold in character. The first is the *Apology tyrannical;* the second, the *Apology imbecile;* the third, the *Apology absurd;* and the fourth, the *Apology infamous;* that is all, Tyranny, imbecility, absurdity, and infamy all unite to dance, like the weird sisters, about this Crime.

"The *Apology tyrannical* is founded on the mistaken act of Governor Reeder, in authenticating the Usurping Legislature," etc.

Again, later in his speech, he said:—

"As the Apologies were fourfold, so are the proposed Remedies fourfold; and they range themselves in natural order, under designations which so truly disclose their character as even to supersede argument. First, we have *the Remedy of Tyranny;* next, *the Remedy of Folly;* next, *the Remedy of Injustice and Civil War;* and fourthly, *the Remedy of Justice and Peace.* There are four caskets; and you are to determine which shall be opened by Senatorial votes.

"There is *the Remedy of Tyranny,* which, like its complement, the Apology of Tyranny,—though espoused on this floor, especially by the Senator from Illinois,—proceeds from the President, and is embodied in a special message," etc.[1]

This method has the virtue of vividness. Each of the phrases chosen is striking and likely to stick in the memory; it can be readily repeated and almost turned into a sort of war-cry. But care must be taken in choosing the phrase, to see that it is appropriate and that it expresses the full meaning of the speaker. Furthermore, the audience must always be made to understand just what the phrase implies; the word "heading" always suggests a name rather than a proposition, and is liable to be vague or ambiguous if left unexplained. Mr. Summer, in the speech quoted above, was careful, in every case, to state in fair and full language the exact proposition he intended to attack or support; for example, after stating, as quoted above, the four apologies made

[1] *Works of Charles Sumner,* Vol. VI, pp. 184 and 185.

by his opponents, naming them, respectively, "the apology tyrannical, the apology imbecile, the apology absurd, and the apology infamous," he goes on to explain the meaning of each name as follows:—

"Next comes the *Apology imbecile*, which is founded on the alleged want of power in the President to arrest this Crime. It is openly asserted, that, under existing laws, the Chief Magistrate has no authority to interfere in Kansas for this purpose. . . .

"Next comes the *Apology absurd*, which is, indeed, in the nature of pretext. It is alleged that a small printed pamphlet, containing the 'Constitution and Ritual of the Grand Encampment and Regiments of the Kansas Legion,' was taken from the person of one George F. Warren, who attempted to avoid detection by chewing it. The oaths and grandiose titles of the pretended legion are also set forth, and this poor mummery of a secret society, which existed only on paper, is gravely introduced on this floor, in order to extenuate the Crime against Kansas. It has been paraded in more than one speech, and even stuffed into the report of the Committee," etc.[1]

**c. Summaries and partitions.** The desirability and proper use of summaries and partitions in the discussion, has been already treated in the chapters on Presentation. But it should be said here, in addition, that the best opportunity and the greatest demand for using these artifices is found in debate. Something of this kind is necessary to bring order out of chaos. In the confusion of argument, answer, and rejoinder, of evidence and counter evidence, of big things and little things, crowded together and following one another in rapid succession, the effect on the audience easily becomes kaleidoscopic; they see the combinations of shapes and colors tossing about before their eyes, but there is nothing in particular to be impressed by, or to remember. These defects can be avoided in large measure by the use of *internal summaries*, i. e., summaries at various points within the proof, which serve to pick out the really important things in the

[1] *Works of Charles Sumner*, Vol. IV, pp. 187 and 192.

question and impress them clearly upon the attention and memory. Furthermore, used in conjunction with partitions, they keep the audience always informed just *where they are* and *where they are to be led next.* At every turn in the course of the debate there are many roads branching out in various directions. A summary or a partition, or the two in combination, makes clear to the listener that he has reached the end of one road and put it behind him, and that he is now to turn in a certain new direction for a time. Particularly when, in debate, some point has been discussed back and forth for a time between the opposing sides, it is almost necessary to summarize what has been said on each side, to compare the opposing proofs, and make clear what you would have the audience believe is the result of it all. It is only in this way that matters can be brought to some conclusion, and the audience made ready to turn their attention elsewhere.

**d. Asking questions.** A common stratagem of debate is the asking of questions. By this is not meant the figure of speech known as the "rhetorical question." The stratagem consists rather in directly asking questions that really call for an answer. This is usually engaged in during the give and take of the discussion. The purposes of resorting to this stratagem are three: (I) To compel an opponent to take a definite position on some issue: (II) to tempt him to waste time on trivial matters, or (III) to force him into a dilemma, where he may be caught whichever way he answers.

(I) **To get definite answers.** To accomplish the first of these aims, the value of a question is obvious. A debater often encounters an opponent whose power lies less in his ability to prove an issue than in his ability to evade it. Such an opponent is facile in shifting ground and can readily becloud the point in dispute. He is like a cuttlefish that squirts the water full of a black excretion and escapes in the darkness. In exposing and cornering such a man, there is hardly a better way to "pin him down" than to compress the point in issue

into a single, clear, direct question and demand an answer. The question, of course, needs to be framed in such a way that it cannot be readily evaded or distorted from its intended meaning; also, in asking the question, it should be presented in such a forcible and imperative manner that a failure to answer will be unsafe. But, with these precautions, in the face of a question clearly worded and strongly put, an opponent will find it difficult to evade the issue.

(II) **To waste time.** To propound questions for an opponent to waste time upon is good tactics under some circumstances, and the disposition of such a question is a good test of a debater's ability. A question put with an air of taunt or challenge is a great temptation; an inexperienced or impulsive debater may often be drawn into the trap of answering at any cost. This trick is sometimes tried in intercollegiate debate, where the time is limited and a waste of even a minute is a serious matter. A debater should realize the nature of this stratagem, not only in order to be able to try it himself, but in order to be able to appreciate it when he is the intended victim. There is one rule that is truly a golden rule for an inexperienced debater, "Stick to the point." There are three ways of evading such questions. One way is to *ignore them*, a method which is sometimes not safe if the questions have been well presented, and if the audience seems to be impressed with them. Another is to *avoid them* by evasive ambiguous answers, a method which calls for much tact and shrewdness. The third, is to *expose them* by explaining the motives of the propounder of the questions, to show that the questions are not important, but merely intended as snares.

(III) **To force into a dilemma.** The third purpose that may be served by the asking of a question is that of forcing an opponent into a dilemma, where he may be caught, however he answers. Lincoln, with great shrewdness, drove Senator Douglas into such a situation in the joint debates in 1858. Briefly, the circumstances were these: Lincoln assumed at the start a position of hostility to the Dred Scott

Decision, which declared, in substance, that Congress had no power to exclude slavery from any of the territories. Senator Douglas attacked Mr. Lincoln bitterly for his position in the matter, declaring that any decision of the Supreme Court was final and sacred, and that any man who rejected or denounced such a decision was "unpatriotic, disloyal, revolutionary," etc. It also happened that Mr. Lincoln had charged Senator Douglas with being concerned with certain other Democrats in a conspiracy to "nationalize slavery." He gave evidence tending to expose such a conspiracy, and showed that but one thing was wanted to make it complete, viz., a decision of the Supreme Court, declaring that a state of the Union could not exclude slavery from its limits; and he furthermore charged Senator Douglas with planning and working to procure such a decision. Under the circumstances, Mr. Lincoln propounded the following question: "If the Supreme Court of the United States shall decide that States cannot exclude slavery from their limits, are you in favor of acquiesing in it, adopting it, and following it as a rule of political action?" Senator Douglas was caught. If he answered in the affirmative, he seemed to substantiate the charge of conspiracy to get such a decision, and gave Mr. Lincoln an opportunity to drive home his attack; on the other hand, if he answered in the negative, he was committing the very act which he had denounced in Mr. Lincoln as unpatriotic, revolutionary and heretical, viz., opposing a decision of the Supreme Court. But one course was open, and the wily debater adopted it; he evaded the question. In his speech at Freeport, August 27, he said:—

"The third question which Mr. Lincoln presented is, if the Supreme Court of the United States shall decide that a State of this Union cannot exclude slavery from its own limits, will I submit to it? I am amazed that Lincoln should ask such a question. ('A schoolboy knows better.') Yes, a schoolboy does know better. Mr. Lincoln's object is to cast an imputation upon the Supreme Court. He knows that there never was but one man in America,

claiming any degree of intelligence or decency, who ever for a moment pretended such a thing. It is true that the Washington *Union*, in an article published on the 17th of last December, did put forth that doctrine, and I denounced the article on the floor of the Senate in a speech which Mr. Lincoln now pretends was against the President. The *Union* had claimed that slavery had a right to go into the free states, and that any provision in the constitution or laws of the free States to the contrary were null and void. I denounced it in the Senate, as I said before, and I was the first man who did. Lincoln's friends, Trumbull, and Seward, and Hale, and Wilson, and the whole black Republican side of the Senate, were silent. They left it to me to denounce it. And what was the reply made to me on that occasion? Mr. Toombs of Georgia got up and undertook to lecture me on the ground that I ought not to have deemed the article worthy of notice, and ought not to have replied to it; that there was not one man, woman, or child south of the Potomac, in any slave State, who did not repudiate any such pretension. Mr. Lincoln knows that that reply was made on the spot, and yet he now asks this question. He might as well ask me, suppose Mr. Lincoln should steal a horse, would I sanction it; and it would be as genteel in me to ask him, in the event he stole a horse, what ought to be done with him. He casts an imputation upon the Supreme Court of the United States by supposing that they would violate the Constitution of the United States. I tell him that such a thing is not possible. It would be an act of moral treason that no man on the bench could ever descend to. Mr. Lincoln himself would never in his partisan feelings so far forget what was right as to be guilty of such an act." [1]

### 3. The Conclusion

With respect to the conclusion, little needs to be said more than has already been said in the book on Presentation. The importance of the conclusion in debate is obvious. It is undoubtedly an advantage to be so placed as to be able to direct the course of things to come; but it is a greater advantage to be so placed as to be able to review and sum up the things that are past. To the last speaker is given the oppor-

[1] *Lincoln-Douglas Debates*, p. 96.

tunity of leaving his interpretation of the facts, and his summary of the important points, fresh in the minds of his audience. So that a closing speaker is even better situated than an opening speaker, to obtain the acceptance of his method of dividing the question and his statement of the issues; that is, he is in such a position that he can finally persuade the audience to look at the question through his eyes. Moreover, on any contested point he has the privilege of the last word.

**a. Strategy in conclusion.** Oftentimes a speaker, if he knows beforehand that he is to have the privileges of the final reply, can with good effect hold some of his fire till the end and surprise the enemy with new evidence when reënforcement is badly needed. This is a bit of strategy that can be practiced in many situations. For example, in intercollegiate debate, or any similar prearranged contest where the number and order of speakers is fixed, it is not unusual that one side keeps back its best refutation of some point in the discussion till its last speech. By this means the opposing side may perhaps be led to think that the point has been conceded and so be tempted to keep silence themselves. Again, it is a wise stratagem when a speaker feels that he has the weaker end of the proof on a point: if he reveals his answer too early, his opponents may make a rejoinder and lay bare the weakness; but by waiting till later he shelters the weakest parts of his case. When it is necessary to fight with crippled soldiers in the ranks, they should be given the most protected positions. It will, however, be kept clearly in mind that what is said in this paragraph, when applied to rebuttal speeches, refers *only to answers that are to be made to opponents' arguments;* for it is generally conceded that *a debater ought not to introduce new positive arguments in his rebuttal.* But one has a perfect right to *answer arguments* when he pleases.

**b. Summarizing.** From the viewpoint of conviction, the first duty of a speaker who closes the argument for his side of the case, is to summarize the whole proof. We have already spoken several times of the confusion natural to de-

bate, a confusion arising from the rapid succession of arguments and evidence, and from the conflicts, crossings, and interminglings of the proofs and ideas of both sides. We refer to it again only to emphasize the value of concluding summaries. After people have listened for any considerable time, to the presentation of a mass of heterogeneous facts and ideas, they need to have their conceptions of the case as a whole straightened out again, and to have their memories refreshed with a new understanding of the points that are important. The auditors cannot be relied on to carry in mind to the end the things that are vital; their vision is sure to become clouded by details, and they turn with relief to a man who will clear up matters and set them right. For this reason the hearers can be counted on to give careful attention to a concluding summary, and so they are more likely to remember it than almost anything else in the debate. The desirability of the summary is made greater by the fact that, in the debate, the proof of either side is scattered along through the discussion; it consequently becomes necessary, if the proof is to be properly unified, that these broken threads be woven together at the end by a summary. In some circumstances a mere recapitulation by the last speaker is not enough. In debates where there is "team-work," it is often desirable that each speaker in his conclusion should summarize what has preceded. This keeps the hearers always in close touch with the proof, and gives them an understanding of just what is being accomplished at each forward step; then when the end is finally reached, the case, as a whole, is embedded in their minds, and the final summary is much more intelligible and effective. The mistake may easily be made of making a summary too long or too detailed. To be effective it needs always to be *direct, incisive, and as brief as is consistent with clearness*. To be diffuse or tediously technical destroys the aggressive force that is indispensable. Any kind of recapitulation must be as sharp, as firm, and as bold as the blows of the hammer. Such a conclusion is exemplified in

the following peroration of a speech by Sir Robert Peel, in the debate in the House of Commons on the bill relieving the disabilities of the Jews. It is especially to be noticed for its skilful repetition and emphasis of the central idea of the whole speech, viz., forgiveness and reparation for past wrongs:

"It is for these reasons—because I believe it to be in conformity with the enlarged and comprehensive spirit of the British Constitution—that these disqualifications should no longer exist; because I rejoice in the opportunity of making reparation for the injuries and persecutions of former times; because I think the Jew has fairly earned the privileges which it is proposed to extend to him, by patience and forbearance, by tried fidelity and loyalty; but above all, because I am a member of a Christian people, because I am a member of a Christian legislature, I will perform an act which I believe to be in strict conformity with the spirit and precepts of the Christian religion. We are commanded by that religion, as the condition of our own forgiveness to forgive those who have trespassed against us. That duty is not in this case imposed upon us; but there is another duty as sacred in point of moral obligation, and more trying to human pride, namely, that we should forgive those against whom we have trespassed. Sir, I shall give my cordial support to the bill before the House." [1]

**c. Balanced summary.** Of all the forms of summaries that may be used, the most effective in debate is "the balanced summary," that which in an earlier part we have called "amplifying and diminishing." The distinguishing characteristic of debate is the directness of conflict between the opposing sides. The audience is kept constantly balancing one argument against another and swaying back and forth with the struggle of the contending factions. Consequently in the end their judgment is always relative. It is not that one side is strong or weak, but that it is on the whole stronger or weaker than the other. So it is clearly wiser to assist the audience in this comparison and try to make them see the relative strength of the two sides as you wish them

[1] *World's Orators* (England), Part III, p. 211.

to make the comparison by themselves, according to whatever standards may happen to be uppermost in their minds. Sometimes, if a speaker feels that he has the weaker side of the proof, it is more politic for him to leave his hearers in uncertainty, and to cover up the logical conclusion that would result from such a comparison. This is good tactics, for example, when a man adopts a policy of obstruction, i. e., when he finds that he has not a strong positive case, and so resorts to the trick of lying in wait and throwing up objections against his opponent. If all his objections were carefully analyzed and logically summed up, they would not really amount to much; so his only hope lies in the general discredit he may throw upon the proof against him. In such a situation he would suffer by a contrast of point with point, and he would gain by leaving matters in confusion. This is, of course, a great confession of weakness and is very dangerous with opponents good enough to recognize and expose it. But, assuming that a speaker has a fair side of the argument, to amplify and diminish is advisable. It makes the proof complete and presents definitely a statement of the conclusion that must be drawn. It is a final charge, where all the forces of your own side are gathered together and thrown directly against the enemy. A good illustration of its effectiveness is found in the conclusion of Senator Douglas's speech at Chicago, July 9, 1858:—

"Thus you see, my fellow-citizens, that the issues between Mr. Lincoln and myself, as respective candidates for the U. S. Senate, as made up, are direct, unequivocal, and irreconcilable. He goes for uniformity in our domestic institutions, for a war of sections, until one or the other shall be subdued. I go for the great principle of the Kansas-Nebraska bill, the right of the people to decide for themselves.

"On the other point, Mr. Lincoln goes for a warfare on the Supreme Court of the United States, because of their judicial decision in the Dred Scott case. I yield obedience to the decision of that court—to the final determination of the highest judicial

tribunal known to our constitution. He objects to the Dred Scott decision because it does not put the negro in the possession of the rights of citizenship on an equality with the white man. I am opposed to negro equality. I repeat that this nation is a white people—a people composed of European descendants—a people that have established this government for themselves and their posterity, and I am in favor of preserving not only the purity of the blood, but the purity of the government from any mixture or amalgamation with inferior races. I have seen the effects of this mixture of superior and inferior races—this amalgamation of white men and Indians and negroes; we have seen it in Mexico, in Central America, in South America, and in all the Spanish-American States, and its result has been degeneration, demoralization, and degradation below the capacity for self-government.

"I am opposed to taking any step that recognizes the negro man or the Indian as the equal of the white man. I am opposed to giving him a voice in the administration of the government. I would extend to the negro, and the Indian, and to all dependent races every right, every privilege, and every immunity consistent with the safety and welfare of the white races; but equality they never should have, either political or social, or in any other respect whatever.

"My friends, you see that the issues are distinctly drawn. I stand by the same platform that I have so often proclaimed to you and to the people of Illinois heretofore. I stand by the Democratic organization, yield obedience to its usages, and support its regular nominations. I indorse and approve the Cincinnati platform, and I adhere to and intend to carry out, as part of that platform, the great principle of self-government, which recognizes the right of the people in each State and Territory to decide for themselves their domestic institutions. In other words, if the Lecompton issue shall arise again, you have only to turn back and see where you have found me during the last six months, and then rest assured that you will find me in the same position, battling for the same principle, and vindicating it from assault, from whatever quarter it may come, so long as I have the power to do it." [1]

In this summary the speaker has stated with fair accuracy

[1] *Lincoln-Douglas Debates*, pp. 12, 13.

the points of difference between him and his opponent, but he has so stated them as to present his own side always in the better light. He places the arguments side by side, but he states the points in a manner favorable to himself; and at the close he drives home the fact and the idea that lies at the foundation of his own case, thus leaving in the minds of his hearers an impression that, on the whole, their votes and their support should be given to his cause.

## CHAPTER 18

### REBUTTAL SPEECHES

### OUTLINE

A. Rebuttal explained.
B. No new constructive points.
C. The preparation of rebuttal.
    1. Must be prepared in advance.
    2. Memorized preparation.
    3. Know the other side.
    4. Be ready for surprises.
D. Effect of time limit.
E. Answer whole case.
    1. Find fundamental points.
    2. Show audience.
F. Have a clear and careful method.
G. Be fair to opponents.

**A. Rebuttal explained.** General refutation has already been defined as the destruction of opposing proofs. It is either evidence or argument presented, not for the purpose of directly advancing your own case, but of blocking or destroying the case of your opponent. It is now the almost universal practice in contest debating (and is very common in actual debates in assemblies of various sorts) to provide for special second speeches to be made after the main cases have been presented, for the purpose of presenting such material. Such speeches are called rebuttal speeches. In law rebuttal is "the giving of evidence on the part of a plaintiff (affirmative) to destroy the effect of evidence introduced by the defendant (negative) in the same suit." (Webster's Dict.) In some debates, both contest and real, this legal precedent is more closely followed, and the affirmative only has rebuttal speeches. Of course, all speakers on both sides may have

more or less refutation in the main speeches. Since the order of speaking and the nature of negative cases gives the negative speakers superior opportunities for refutation in the main speeches, it is well to give the affirmative some compensating advantages in rebuttal. So even where both sides have equal rebuttal speeches, the negative leads in rebuttal, giving the affirmative the last rebuttal speech. Refutation is the broader term (as we use them) and rebuttal is the refutation that is given in a special speech which has properly no (or very little) constructive material in it.

**B. No new constructive points** of importance should be allowed in the rebuttal speeches. Only such material as can be used *against the opponents' case* should be permitted. It has already been suggested that it is well in a debate where a man may speak more than once to hold material in reserve for rebuttal. It is, of course, possible to repeat or refer to arguments and evidence already given, but such repetition or reference must be subordinate to rebuttal and used destructively, not constructively. But the repetition of old materials is never quite so strong as the production of new. So that it is sometimes good strategy, even at the cost of taking something away from the strength of a first speech, to hold back some good evidence as a reserve. But the judges of contest debates should always penalize debaters who simply repeat or continue their main speeches during the time allowed for rebuttal. All that has been said concerning refutation in argumentation (in chapter 15) applies to rebuttal speechs in debate. It is not repeated here, not because it is less important, but because it has been sufficiently discussed in that chapter. Refutation is the very essence of debate, and the power to refute well is one to be sought by a debater as earnestly as he would seek any single power that a public speaker may hope to possess.

**C. The preparation of rebuttal** should be very carefully done. This does not mean, however, that rebuttal speeches should be memorized, or even written out.

**1. The rebuttal must be prepared in advance.** The material out of which to fashion rebuttal speeches should be carefully gathered and arranged for rapid use. Many contest debaters fail in this phase of their work. In debate, rebuttal is *no less important than positive proof;* in intercollegiate debates it is most often the rebuttal that is decisive; in any discussion it is the "last speech" that is coveted; Webster's famous Reply to Hayne was almost pure refutation. And it is very seldom that successful refutation is *impromptu. Good rebuttal speeches are practically always extempore,* not impromptu, nor memorized. An anecdote in point is told concerning one of the most brilliant advocates of the English bar. This lawyer was one day arguing an important case before one of the highest tribunals of the country. In the course of the trial he was made the object of an attack, personal and political in nature, from his opponent, the attorney for the prosecution. The attack was bitter, but forcible and persuasive. It seemed to be unexpected by any one; the court was surprised, but manifestly affected. The advocate arose to make reply, and in his introduction, with perfect calmness and great eloquence, he answered every charge, retrieved the lost favor of the court, and overpowered his assailant with an irresistible invective. After this trial was finished, one of the judges—a personal friend—expressed his surprise and admiration at the extraordinary eloquence of the reply, declaring the retort to be one of the most brilliant passages ever heard in an English court of law, and added, that he had never believed such impromptu oratory to be within the limits of human powers. In answer to these congratulations, the advocate invited the justice to accompany him to his law chambers. Entering his library, he walked to a desk, opened a drawer, and took from it a manuscript; it was his speech of the morning written out in full, nearly word for word as he had delivered it. He had foreseen a contingency that nobody else had expected or deemed possible, and had made ready to meet the situation. He won because he had prepared in

advance. And the circumstances of his situation made practically memorized preparation proper.

**2. Memorized preparation,** however, should rarely be attempted by beginners, especially in contest debating. There is, in the first place, too great danger that the opposition will not say just what you are prepared to answer—and there is in debate no greater exhibition of stupidity, no greater indication of weakness, than is afforded by a memorized rebuttal that does not *fit.* Preparation of material to meet extemporaneously *any* stand taken by the opposition is good preparation. Anything else is weak and dangerous. Daniel Webster declared that all the material of his Reply to Hayne had been gathered, and waiting in his desk for months before the debate. Speaking of Senator Hayne, he said to a friend: "If he had tried to make a speech to fit my notes, he could not have hit it better. No man is ever inspired with the occasion; I never was." Mere words and gestures do not make refutation any more than they make positive proof. There must be just as much evidence in the one as in the other. Rebuttal demands as careful a choice of weapons and as accurate a method of handling them as any other kind of proof. Invention, selection, and arrangement demand as much preliminary planning here, as elsewhere.

**3. Know the other side.** Clearly, the primary necessity in preparing refutation is to know just what points we may be called upon to answer; we must have a clear and accurate understanding of the points our opponents need to establish, and of the methods they may adopt in the attempt. Would any capable general ever lay the plans for a battle without first considering the position of his enemy, his location, his points of strength and weakness? As we have discovered earlier, the selecting of the main heads of brief in debate, depends very largely upon what the opposition may be able to "do about it." Those points must be chosen for emphasis, points that hit hardest and straightest at *the necessary* proofs of the other side (when we are able to tell in advance

what such necessary proof will be); and at the same time we must remember that these main heads will surely be attacked, and we must take up a position that is defensible against assault. All this means a study and comparison of the two sides of the question, so as to find out what arguments need to be attacked, and, on the other hand, how one's own arguments may be best defended against the particular attack the other side will have to make.

**4. Be ready for surprises.** But it is rarely possible to foresee every argument that an opponent may advance. No two persons reason just alike: an opponent may well look at the question from some peculiar standpoint, or, as more often happens, he may plan a surprise. Then, too, there are many minor questions that are raised in such a discussion, which it is hardly worth while trying to anticipate, or which escape notice in preparation. Commonly, these minor points are best left unanswered; but sometimes circumstances make them worth notice. Whatever the reason, it is certain that all the incidents of a debate cannot be foreseen; we must always expect the unexpected. A successful debater must always be ready to meet strange situations, and to manufacture more or less of refutation and of proof on the scene of action. Now, a disputant who has read only on those phases of the question that are of interest to him, or who undertakes only those parts of the discussion that he treats in his own proof, is helpless in such circumstances. He has no resources to draw upon. If the discussion were in writing, he might think it over, consult new authorities, and plan his answer; but in debate there is no such opportunity. He must act at once. He is in the predicament of a military expedition that sets out on a long campaign, with a day's rations and no base of supplies. When a debater is thus surprised, his only hope must lie in having a thorough knowledge of the question *as a whole, and in all its details*, a knowledge so thorough as to be ready at the call of any exigency. Furthermore, a broad understanding of the foundations and general

conditions of the question is necessary, in order to be able to estimate rightly the force and bearing of arguments that are made by opponents. A superficial preparation always distorts the mental vision of a speaker, and confuses in his mind the real issues in the discussion. But debate demands an especially clear perception and quick judgment of what is vital; the debater must think as quickly and act as decisively as the broker on the exchange; superficial information or a confused understanding mean as sure disaster in the one case as in the other. A debater in action must be able, when any argument or any evidence is brought against him, to estimate in a few seconds just what the matter amounts to, how it is related to his own case, how much to say about it, and where—in what part of his speech—to answer it. *Here a stock of ready-made arguments becomes useless. Only a deep understanding of the subject to the very bottom can give the clear, ready insight, and the steady judgment that alone avails.*

**D. Effect of time limit.** These foregoing suggestions are especially applicable in preparation for school or college debates. There the limitations of time are very stringent: not the smallest fraction of a minute can be lost in confusion or unnecessary deliberation; the answer must be in the debater's head as soon as the argument has left his opponent's lips. This necessity for such preparation, important everywhere, here intensified by the circumstances, constitutes one of the most valuable phases of contest debating.

**E. Answer whole case.** Too much emphasis cannot be given to the remarks in chapter 15 concerning what to answer in refutation. It is probably worth while here to discuss this question with particular reference to the rebuttal speeches in formal debate. The great fundamental principle which should guide the preparation of all rebuttal speeches is: *Answer the whole case of the other side.* One of the fatal weaknesses in the power of any debater, and a weakness that is almost invariably displayed by a beginner, is the weakness

of attacking only a part of an opponent's proof. It is easiest, in refutation to pick out the weak points of the opposition and attack them, leaving the more formidable points standing: it demands less careful preparation, and a less accurate analysis of the case of the other side; and it often seems to make the greatest impression on the audience. Consequently there is a temptation to pick up the more obvious errors of an opponent and dramatically expose them, or to seize upon some foolish word or phrase and ridicule it; it brings a laugh or a burst of applause, whereas, in an attempt to refute any of the stronger proofs, success is not so easy, for the audience, feeling that there are two sides to the issue, are not so readily convinced. But in the end, the audience will probably adhere to the man who has made them believe that his case, as a whole, is the stronger. Consequently, to achieve final success, the debater must endeavor to make them see, not that he has destroyed an argument here and there, but that he has overwhelmed the proof against him, in its entirety.

**1. Find the fundamental points.** In order to make an attack upon the whole case of the other side, *two things are necessary.* In the *first* place, *the speaker must analyze the entire proof of his opponents and pick out the few basic points in it.* It is necessary to determine upon the few fundamental points of an opponent's proof, for the same reason that it is necessary to determine upon those of one's own. It is necessary for the sake of *clearness;* to give the same attention to the large and the small points of the other side perplexes a hearer in his undertsanding of the question as a whole. It is necessary for the sake of *emphasis;* it is only by neglecting or slighting trivial facts and dwelling upon the important ones, that the vital points of the question can be brought out into a clear light. It is necessary for the sake of *saving time;* rebuttal speeches are usually short, and definitely limited. To give attention to the facts of secondary importance is to waste part of these precious minutes. If the vital points of an opponent's contentions are destroyed, his subordinate

points fall with them and so do not need special rebuttal. These main contentions must be answered if an opponent is to be defeated at all, and, if they are answered, *to do more is superfluous.*

**2. Show audience that these points cover the case.** But it is not enough for a debater merely to pick out in his own mind the important points of the other side, and proceed to refute them, he must, in the *second* place, *make it clear to the audience that in answering these points he is meeting the whole case* against him—that these *are* the foundations of the opposing case. To give the rebuttal its full effect requires that the audience be made to see that the speaker is attacking the entire proof in opposition, and that, if he succeeds, he has won his case. To do this requires that the arguments to be answered shall be stated clearly beforehand, and that they shall be explained in such a way as to make it evident that in them is contained the whole case of the other side. It is very often desirable, as a means of making it evident that the whole case of the other side is being attacked, to *analyze openly* before the audience the proof of an opponent, and explain just what his argument as a whole amounts to. For instance, a speaker in rebuttal might well begin in some such manner as this: "Everything of any importance that my opponent has had to say on this question may be reduced to these three propositions, viz., first, etc., second, etc., third;" "my opponent's case, as far as it has been presented to us can be stated in his own words, as follows," etc. In some such way the audience may be made to have faith in the speaker's sincerity, and in the importance of his efforts in rebuttal, and so be made ready to acknowledge the full force of his refutation.

For example, Webster, in his Reply to Hayne in the debate on the Foote Resolution, devoted the body of his speech to the refutation of Senator Hayne's theory of states' rights under the Constitution. Before entering on this task, he set forth in full the case presented by Senator Hayne, stating

all the essential propositions of his doctrine, and making it evident that taken together they embraced everything that demanded refutation:—

"There yet remains to be performed by far the most grave and important duty, which I feel to be devolved on me by this occasion. It is to state, and to defend, what I conceive to be the true principles of the constitution under which we are here assembled. I might well have desired that so weighty a task should have fallen into other and abler hands. I could have wished that it should have been executed by those whose character and experience give weight and influence to their opinions, such as cannot possibly belong to mine. But, sir, I have met the occasion, not sought it; and I shall proceed to state my own sentiments, without challenging for them any particular regard, with studied plainness, and as much precision as possible.

"I understand the honorable gentleman from South Carolina to maintain, that it is a right of the State Legislatures to interfere, whenever, in their judgment, this Government transcends its constitutional limits, and to arrest the operation of its laws.

"I understand him to maintain this right, as a right existing under the constitution; not as a right to overthrow it, on the ground of extreme necessity, such as would justify violent revolution.

"I understand him to maintain an authority, on the part of the states, thus to interfere, for the purpose of correcting the exercise of power by the General Government, of checking it, and of compelling it to conform to their opinion of the extent of its powers.

"I understand him to maintain that the ultimate power of judging of the constitutional extent of its own authority is not lodged exclusively in the General Government, or any branch of it; but that, on the contrary, the States may lawfully decide for themselves, and each state for itself, whether in a given case, the act of the General Government transcends its power.

"I understand him to insist that, if the exigency of the case, in the opinion of any State Government, require it, such State Government may, by its own sovereign authority, annul an act of the General Government, which it deems plainly and palpably unconstitutional." [1]

[1] *Congressional Debates*, Vol. VI, Part I, pp. 72, 73.

**F. Have a clear and careful method.** The natural tendency of young debaters in rebuttal is toward carelessness of method. It is true, even of more experienced men, that speakers who are very careful in arranging and presenting their original proofs, when they come to the work of refutation, forget themselves and degenerate into a weak informality, wandering from the point and mixing up their materials without regard for clearness of statement, the proper arrangement of evidence, or the natural sequence of the proofs. Rebuttal is no more informal than any other kind of demonstration, and requires just as much care in presentation. The materials for it must be selected as judiciously, arranged as logically, and stated as clearly. A young debater does well to watch himself consciously till he has formed firm habits of the right kind.

**G. Be fair to opponents.** The final word in regard to rebuttal speeches is: *Be fair, courteous, good humored, and honest in dealing with the opposing case.* State the opposing arguments fairly. Do not color them to suit yourself by rephrasing, or substituting, or inserting words not used by your antagonist. In the use of charts and maps, in asking to examine evidence, in giving them an opportunity to examine your evidence, be courteous. You will hurt your own case, and make your audience uncomfortable by being churlish and ill-tempered. It is probably not necessary to advocate and advise common honesty. An honest man will be an honest debater. Manufacturing evidence, garbling quotations, falsifying references, misstating facts—these things are not "strategy," and "part of the game." They are simply cheap dishonesty—plain lies. No self-respecting debater will indulge in such practices. In contest debating when the stupid or dishonest are detected in such practices, permanent disbarment from platform activities should be the minimum penalty.

# CHAPTER 19

DELIVERY

## OUTLINE

A. Oral presentation in debate.
B. Four methods.
    1. Reading.
    2. Memorizing.
        a. Place for memorized speeches.
        b. Writing as a preparation.
    3. Impromptu.
    4. Extemporaneous.
        a. Advantages.
            (I) Flexibility of speech.
            (II) Fit mood of audience.
            (III) Physical advantage.
            (IV) Use of inspiration from audience.
        b. Dangers.
            (I) Exaggeration.
            (II) Repetition of substance.
            (III) Monotony of form.
        c. Dangers may be overcome.
        d. Combining memoriter and extempore: "Block System."
        e. Specific suggestions for extemporaneous debating.
            (I) Notes.
            (II) Outlines.
            (III) Charts.
            (IV) Platform hints.
            (V) Practice.

**A. Oral presentation in debate.** All that has to do with oral delivery is of great importance in debate. To know how to investigate a problem, gather and arrange argument and

evidence, and write a convincing and persuasive speech does not make one a debater. A good debater must be able to do all this, and in addition must be able to speak well in public —must be able to present his case orally to an audience. In getting ready for this final and crucial part of his work, the fundamental question the debater has to meet is: "How much shall I write—How far shall I put my preparation into written form?" This is an important question: habits ill-formed in this particular have been responsible for the failures of many preachers, lecturers, and advocates. On the other hand, correct habits are equally potent for success. Moreover, every beginner should realize that *strength or weakness in this respect is truly a matter of habit*, for practices adopted early grow fast and soon become difficult to abandon. Even at the cost of hard work and discouraging failures, a young debater should begin right.

**B. Four methods.** When we come to consider this question, we find there are four possible methods: (1) *reading* manuscript, (2) delivering a written manuscript from *memory*, (3) *impromptu* speaking without any previous preparation whatever, (4) *extempore* speaking from notes or outline.

**1. Reading.** The first method, that of writing out a complete speech, and reading it verbatim, should *never be followed* by a debater in contest debating or in actual controversy in court or assembly. It is contrary to the purpose and spirit of debate. A debate is two-sided; it consists of the clash and interplay of the opponents. Without mutual adaptation and adjustment there can be no real debate. Two written arguments on opposite sides of a question do not constitute a debate. But not only this, not only does this method preclude meeting an opponent, but it also shuts one away from the audience. There can be little, if any, contact with the audience. The inter-communication between speaker and hearer that gives vitality to the speech is absolutely precluded. There may be occasions on which a man is justified in reading a manuscript to an audience, but such an occasion

is never found in debate. Any one who has ever heard a preacher read his sermons, sentence by sentence, from a manuscript, need not be told that in the scrimmage of a debate such a practice would be fatal. This method lacks all the spontaneity, all the power of adaptation to circumstances, all the aggressiveness that is essential.

**2. Memorizing.** The second method, that of delivering a written speech from memory has, of course, most of the disadvantages of the reading method. Considered as a method to be adopted permanently and for regular use, memorizing must undoubtedly be condemned. The most obvious defect of such a practice is the *lack of adaptability to circumstances.* We have already seen that a large element of debating power lies in the ability to appreciate and grapple with situations; but a speaker who has learned the sentences he is to deliver is powerless if anything unexpected arises, or if his written speech does not happen to fit the occasion. Again, the memoriter method involves a great and largely useless physical strain. It demands the most *severe mental and nervous exertion* in committing the speech, in worrying over the chances of forgetting, and in delivery. One's energy should be more intelligently expended in debate. So serious a strain does it require, that a continuance of such practices tends to diminish spontaneity and quickness of thought, which gradually impairs the fineness and clearness of the whole mind. Memorizing also prevents, in a great degree, the necessary closeness of contact between speaker and audience. It demands a remarkable degree of elocutionary skill to infuse into committed passages the variety and the spontaneity of extempore speaking. The memoriter speaker all too easily becomes an actor, posing and soliloquizing—an attitude fatal to power in debate, for it destroys the leadership which we have seen is indispensable in the work of persuasion. Then, too, all the inspiration that should come from the reflex action of the audience is lost. The declaimer, instead of being stirred and directed by any manifestations of thought

or emotion on the part of his hearers, is liable to be confused by such *influences*, and is constantly fearful of their appearance. Memorized debating is too likely to be an *exhibition, not a communication*. There is probably little danger to-day that debaters will read manuscripts, but the evil of memorized speeches still continues. Teachers and coaches should insist that debaters refrain from memorizing—even perhaps from writing speeches. Many college debaters are handicapped by being allowed to get the habit of memorizing. This means that they never reach their full power. They are like healthy men who wear always appliances meant for cripples, for fear that they may sometime need them. The result is a chronic weakness that makes the artificial support necessary. Any person who has intelligence enough to have a right to hope to be a debater, has intelligence enough to learn how to debate extemporaneously. Would-be debaters should compel themselves to learn the best method—and teachers should tolerate no other method in practice.

**a. Place for memorized speeches.** It must be clearly unstood that we are not saying here that there are no proper occasions whatever for memorized speeches. Indeed, there are many that call for such—or at least on which such speeches are perfectly appropriate. But these are never debates. They are rather great formal demonstrative occasions of some sort, at which experienced speakers are called on for the "oration of the day." Experienced speakers are more safe in memorized speaking. It is very difficult for a young speaker who has not had extensive platform experience, to deliver a memorized speech with that directness—that sense of communication—which is the very soul of effective speaking. An experienced judge can usually tell the exact point at which a young speaker turns from extempore to memoriter speaking—and this is almost without exception a change from better to worse. Experienced speakers when *not debating* may use memorized speeches. Debaters and beginners should avoid this method.

**b. Writing speeches as part of the preparation** of a debate is sometimes an excellent thing. Often it is dangerous. It is good for the debater who has the courage to throw the manuscript into the waste basket (or file it away), as soon as he has it as he wants it in form, length, etc. When this stage is reached an outline of the manuscript should be made and the manuscript put out of sight and kept there. Then the speaking in practice should be from the outline without any *attempt to recall the words of the manuscript*. Of course, it is true here as elsewhere, that the practice of writing is a great benefit to any speaker who is strong enough to be master of what he has written. Of course, a complete and accurate *brief* should *always* be written as the basis of any debate. Especially to a debater in the early stages of his career, the writing of briefs, and, sometimes, finished speeches, is of the greatest value. Enough has already been said in the preceding parts of this book to make it evident that argumentation is a distinct art with rules and methods peculiar to itself. Upon the understanding of these methods and the observation of these rules success depends, and in bringing one's self to comprehend these various principles, and to develop habits in conformity with them, the practice of writing is very valuable. In preparing a careful and detailed brief, which shall present all of his proof in its full strength to a reader, a student must at every step, from the statement of the proposition to the final summary, be conscious of the principles he is following and of his reasons for doing so; he has time and opportunity to realize just why he introduces his proof in a certain way, why he selects certain evidence, why he arranges his material in accordance with a certain plan. Furthermore, what is written can be subsequently examined for defects and virtues. In this way a student can detect his weaknesses and set himself to remedy them. Finally, a person who is writing thinks more closely and concisely, and uses more exact language than one who is speaking, and so develops the qualities of straightforward, logical reasoning,

and of clear, accurate use of words. It does not follow that a debater should write all he says, or that he should always keep up the practice of writing as a means of self-training. Study and experience gradually turn these qualities mentioned above into habits of mind, and the habits once formed are a permanent asset. But, for the debater in the formative period of his career, the regular writing of briefs and manuscripts is invaluable.

**3. Impromptu.** Little need be said about the third method, impromptu speaking—without any previous preparation whatever. This is not likely in a debate unless it happens to be unavoidable as is sometimes the case in real life—never, of course, in contest debating. The power of impromptu speech is not to be disparaged, and it is undoubtedly true that many veteran speakers can debate a proposition with very brief preparation and from a very few notes; but such powers are begotten of long practice and self-cultivation; for a beginner to make such men the models for his own early efforts is foolhardy, and always has unfortunate results. To make such a venture at the start, would be like attempting to learn to swim by jumping into mid-ocean at the first lesson; the well-nigh certain result is to be lost in a flood of bad habits. From such beginnings are produced the rambling, incoherent, inconclusive speakers that are always inferior or mediocre in debate. The weakness of such arguers is that they are wholly lacking in the element of form: they never learn how to conserve their strength to spend it to some purpose; they waste their forces because they have never learned how to marshal and direct them.

**4. Extemporaneous speaking** should undoubtedly be the ideal of the debater. A distinction should always be made between extemporaneous speaking and impromptu speaking. An impromtu speech is wholly unpremeditated; the speaker rises on the moment and talks off-hand, not having deliberated on the subject at all. But "extemporaneous," as the term is now used, is a name applied to any speech for which

the language and details of rhetorical form have not been previously prepared. But the more fundamental preparation must have been exhaustive. Extemporaneous speaking is the highest type, the most difficult, most effective, and demands the most thorough preparation. The speaker is always assumed to be prepared on the question, and he may or may not use notes or outline.

**a. The advantages of this extempore method** are many and great: (I) The first advantage—and first in order of importance—is the *power of adaptation*—the flexibility—which it gives to the speaker. The debater who depends for his language upon nothing but his ever present power of making up his words as he goes, can at any time *omit* any of his ideas or arguments that the circumstances make unnecessary; he *can put into* his proof anything that an unexpected turn of affairs requires; he can, if expedient, adopt a wholly new line of demonstration. (II) Furthermore, the extemporizer can *fit himself to the mood of his audience:* if he sees they do not understand a point, he can stop to explain and enforce it upon them; if they seem personally hostile or inattentive, he can resort to persuasion to remedy the situation. At all times, he can hold his position as leader of the assembly both in thought and in feeling. He can reason with his audience. (III) Then, too, extemporizing carries with it *great physical advantages.* "The voice of the speaker is deeper, stronger, and more flexible, and the effort required to produce it much less. The head being held erect, there is no constriction of the throat, the lungs are fully expanded, and the respiratory muscles are free to perform their functions." [1] (IV) Again, *the inspiration of sympathy from the audience comes with its full power only to the extemporizer.* William Pitt truly said that "eloquence is not in the man; it is in the assembly." The response of hearer to speaker may disturb a declaimer but it gives added strength to the extemporizer, helping him to mount to eloquence with a greater boldness and self-confidence.

[1] Buckley, *Extemporaneous Oratory*, p. 13.

**b. The dangers of extemporaneous speaking** should be borne in mind as well as the great benefits that flow from it. There are three that a young speaker needs particularly to guard against. (I) The first is *exaggeration.* The youthful orator, to whom word and idea usually come with tantalizing difficulty, when at length he begins to feel the flow of words coming full and free to his lips, is too liable to be caught up in the onward rush and carried much further than he intends; swollen by the rising enthusiasm, the tide of eloquence mounts higher and higher till it sweeps over the bounds of accuracy, even of truthfulness, and turns into a flood of hyperbole. Then it is that a speaker makes statements that he is afterward forced to take back, calls his opponent bad names, and in general forgets his self-control. Lord Chatham, with all his long experience and constant practice, said that he did not dare to speak extemporaneously with a state secret lurking in his mind, "for in the Sibylline frenzy of his oratory he knew not what he said." [1] A common form of misrepresentation consists in stating evidence carelessly. If a speaker has in his mind the general nature and effect of certain facts, but has not decided just how to put them into words, he finds himself sorely tempted to color the facts with a little rhetorical flourish, to make a "few" into a "great many," to augment "a score" into "hundreds," or to transform "often" into "always." Such exaggeration may, with constant practice, become something of a habit, so that the tendency should be repressed at the start.

(II) A second danger is that of *awkward repetition of substance.* The danger of repeating ideas, of rambling around and covering the same point a number of times, ought to be obviated by careful planning and outlining. This kind of repetition should not be a common fault in extemporaneous speaking. If a speaker permits himself to become indolent in his choice of phrases, however, he will surely find that certain combinations of words will be constantly coming to

[1] Matthews, *Orators and Oratory,* p. 109.

his lips till they become tiresome. This often results in a confusion of thoughts: one stock phrase is made to represent several different ideas; two ideas that are similar but not exactly alike are both expressed in these same hackneyed terms, simply because the speaker is too careless to know the distinction, or has the habit of stating things with only approximate truth. This danger, of course, threatens particularly a speaker whose range of words is small; and for such a man the fault may be overcome by resorting to the dictionary, to the reading of good literature and good orations, or to any expedient for the increase of the vocabulary. The same fault appears in the awkward repetition of introductory and transitional phrases, such as: "Let us next consider," "My next point is," "In the next place," "Along this same line," "Thus we see," etc. A speaker composing as he goes, does not realize how often these phrases are reiterated; but it is noticeable to the audience.

(III) A third danger is that of *monotony of form*—the fault of explaining or reasoning out everything *in the same way*. It is very easy to adopt a sort of logical formula in accordance with which argument after argument is unfolded. A certain mode of reasoning in his own mind is peculiar to the speaker, and when before an audience it is natural to explain the matter to others just as he explained it to himself. The effect of such repetition is much the same as that which a reader gets from page after page of syllogisms in a treatise on formal logic. The reasoning is clear and accurate, but uninteresting and tiresome.

**c. Dangers may be overcome.** Such dangers as these, though they must surely be met, should not be a source of discouragement. The dangers attendant upon other methods of public speaking are equally numerous and usually far more formidable. The young extemporizer to whom the beginning seems hard, may well bear in mind an example cited by Dr. Buckley from Mr. Gilchrist's *Life of Richard Cobden:*—

"I saw Richard Cobden sitting beside John Bright in the

House of Commons. Perhaps no more persuasive speaker, whose power depended largely upon a clear and earnest statement of facts, has ever sat in the British Parliament. Speaking of the Treaty of Commerce with France in 1860, Mr. Gladstone six years later said, 'I don't believe that the man breathed upon earth at that epoch, or now breathes upon earth, that could have effected that great measure with the single exception of Mr. Cobden.'

"His was the triumph of the pure extemporizer. In 1864 he wrote to Mr. Delane, editor of the *London Times:*—

"'It is known that I am not in the habit of writing a word beforehand of what I speak in public. Like other speakers, practice has given me as perfect self-possession in the presence of an audience as if I were writing in my closet. Now my ever constant and overruling thought while addressing a public meeting—the only necessity which long experience of the arts of the controversialist has impressed upon my mind—is to avoid the possibility of being misrepresented, and prevent my opponents from raising a false issue, a trick as old as Aristotle.'

"Yet this master persuader of hard-headed business men was nervous and confused in his first speech; in fact, he practically broke down, and the chairman had to apologize for him. For some time afterward he was so discouraged by his maiden effort that if he had been allowed to follow the bent of his inclination, he would never again have appeared as a public speaker." [1]

**d. Combining memoriter and extempore: "Block system."** It is possible to combine some memorizing with extemporaneous speaking; and under some conditions the combination may be effective. The peroration of an otherwise extempore speech may sometimes be memorized with good results. A beginner may find this a helpful means of weaning himself from declamation, and taking on the strength of extemporaneous speech. And even an experienced speaker may

[1] Buckley, *Extemporaneous Oratory*, pp. 369, 370.

memorize certain passages which require delicate treatment of any kind, the preparation of which he does not wish to leave to the moment of utterance. Such passages may be interspersed through an extemporaneous speech without losing the advantages of this method. Some people advocate memorizing most of the introduction and conclusion and extemporizing the discussion. This is close to what has been called "the block system"—that is, practically the whole debate is memorized in sections. The different sections may be shifted to suit the demands of the occasion, or some of them may be dropped out. This method gives a certain kind of flexibility, but the speaker is after all declaiming memorized material most of the time. This is bad from the standpoint of debating. Some memorized passages may be used if there is need, provided they are not the greater part of the speech, and provided the speaker can keep from leaning too much on such helps. But as a permanent practice, by which the attempt is made to mix the two and deceive an audience into thinking the whole to be extempore, this method is likely to be a failure. An excellent criticism is given by Dr. James M. Buckley, in his book on *Extemporaneous Oratory for Professional and Amateur Speakers:*—

"A joint use of the extemporaneous and the recitative has marked advantages, and is to be commended to those who cannot trust themselves wholly to the former. But it is extremely difficult to adjust it gracefully and forcefully. Transitions of style are usually obvious, extemporized portions being spoken more swiftly or more slowly than the recited. Emphasis and accent are different, and gesticulation undergoes a noticeable change. The reciter is prone to proceed more rapidly than when he extemporizes; at other times, according to the strength of his memory or his excitability when uttering words not previously prepared, he may speak more slowly. A lawyer delivered a Fourth of July oration, in preparation for which he had composed perhaps ten epigrams and half as many paragraphs, some consisting of at

least three times that number of sentences, and had committed these to memory, expecting to extemporize the connective tissue. What he had learned he recited perfectly; what he extemporized he delivered under slight embarrassment, and his course resembled that of a man crossing a bridge, some of the planks of which were weak and others strong. He fairly leaped when he came to one of his committed paragraphs, and it was obvious that he rejoiced in spirit, but more than once his hesitation and awkwardness were pitiable." [1]

**e. Specific suggestions** to be followed in all debating, particularly in extemporaneous debating, and which have not already been made, are contained in the following paragraphs:

**(I) Notes.** We have said that in extemporaneous speaking a speaker may or may not use notes. For a beginner in any kind of oratory it is desirable that some notes be used, if the speech is to be one of any length or intricacy. The prejudice that still exists in some places against the use of notes by a speaker should be disregarded. It is founded on false standards and a misconception of a speaker's purpose. The speaker should be trying to convey thought effectively to the audience—not trying to exhibit his power of memory or other personal qualities. When a speaker has an important case to present to an audience it is very foolish to use much of his energy in remembering matters that can better be carried on a card or two. Especially young speakers should always relieve themselves of the worry and strain of memorized delivery and carry an outline and notes to the platform. They should not even attempt to carry a memorized outline of any length. It takes a mature mind and much experience, to enable a man to carry the complete outline of a speech, in such a way as to guard against the forgetting of points, on the one hand, and wandering from the subject, on the other. And particularly in debate, where the situation is ever changing and where so much depends upon the circumstances of

[1] Buckley, *Extemporaneous Oratory*, pp. 25, 26.

the moment, it is doubtful if even a veteran can work effectively without notes. Outlines and notes should be used in intercollegiate and other contest and practice debates for the purpose of bringing the experience as close as possible to actual debates in real life, and of giving the best training for these. Long and detailed arguments are not presented in courts, legislatures, hearings, etc., without notes. Our debates should be as close as possible to the best of these discussions.

(II) **Outlines.** A complete brief should never be used as an outline of a speech. After the brief is completed a short outline should be made up for any speech, using such parts of the brief as are needed. The outline should be prepared with a particular audience, occasion, time limit, etc., in view. The brief ignores all these. The outline should take up points, present material, in whatever order seems best for a particular situation, absolutely regardless of the order followed in the brief or of the rules of brief drawing. And finally, the outline should be capable of alteration and should be adjusted to the occasion just before the speaker takes the platform. For instance, in an intercollegiate debate a speaker should follow carefully all that is said before his turn comes and should make whatever changes in his outlines are demanded by the changing situation. Points may be dropped out, put in, or re-arranged. The outline should be short, typewritten, with wide spacing (to allow for changes), on 4 x 6 cards. With the outline, but preferably on other cards, should be *all* quotations and statistics to be used. A debater should never present memorized quotations (except *very* short ones) or memorized statistics, to an audience. It is foolish to burden the memory this way. It is careless, for one is likely to forget. It is artificial and can have no excuse other than that of being an attempt to meet a prejudice against notes, or of showing off one's memory. Judges are likely to be suspicious of memorized quotations and statistics. We have heard debaters reel off identical

figures or quotations at two different places in the same speeches. All were memorized and the wrong set came out, and the debaters went on with their declamation, with no thought of what they were saying. *Use a short and flexible outline, and use notes for all quotations and statistics.*

(III) **Charts.** Use charts and diagrams to hang up before the audience on these conditions: (A) that there is no understanding to the contrary with your opponents; (B) that you are willing to leave the chart up after you use it in order that your opponents may use it as they wish; (never put up a chart and then take it down before your opponent has a chance to use it); (C) that you can make certain *important* things clearer in *less time* with a chart than without it. When these conditions are present there is no reason why charts and diagrams should not be used. A slight warning may well be given, however, for contest debates. Charts are much more dangerous for a negative team than for an affirmative, because the latter has the last opportunity to discuss the chart before the audience. If a negative hangs up a chart, and the affirmative puts off refutation of it till the last speech (as they have a perfect right to do) the negative has no chance to answer. Unless the negative feels sure of the chart, it is better not to use one.

(IV) **Platform hints.** It is impossible in this book to discuss platform speaking at any length. Various suggestions have been given by the way. All would-be debaters should learn how to be effective speakers. Regular courses of instruction in speaking are the *best means of getting the right start.* Actual practice with real audiences is the *only means of getting real proficiency in the art.*

(V) **Practice.** A regular course in practical debating—actual speaking in regular debates, with personal criticism by a competent instructor—is the proper means to use in getting started right as a debater. Continued practice after one knows what to try to do, is the only way to become skilful. Extended practice before one knows what to do is

likely to produce more harm than good. It develops the habit of loose, rambling, superficial, assertive talking, which is the antithesis of intelligent debating. So-called debates on big questions, for which only a few hours are spent in preparation are wholly evil as far as learning to *debate* is concerned. With this warning in mind, we may well follow the advice given by a friend to Edward Everett Hale at the opening of his career. "If you want to be a good public speaker, whenever anyone is fool enough to ask you to speak, you be fool enough to do it."

# APPENDIX

A. Bibliography.
B. Pleading.
C. Instructions to Judges with Sample Ballot.
D. Rules for Legal Brief Drawing.
E. 1. Material for a Short Brief.
   2. Material for a Long Brief.

## APPENDIX A

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# APPENDIX B

## PLEADING

This brief statement presents "in a general view, the nature of the process of pleading, and the manner of coming to issue," in common law. This is adapted from the first part of Chapter I of *Stephen on Pleading*, edited by Samuel Williston, Cambridge, Mass.: The Harvard Law Review Publishing Association, 1895. It is given here in the belief that it will aid students in gaining an understanding of the doctrine of issues, and it will make clear certain references in the text in the chapters on "Issues" and "Burden of Proof."

1. Plaintiff (Affirmative) makes *declaration* of his cause of action—states the nature and quality of his case.
2. Defendant (Negative) answers either:
   a. Demurrer. Even supposing facts to be true, denies plaintiff in point of *law* has rights he claims. Tender of issue in law, necessarily accepted by plaintiff.

   or

   b. Plea.
      (1) Dilatory.
         (a) To the jurisdiction of the court—denies jurisdiction.
         (b) In suspension of action—shows some ground for not proceeding with suit *now*.
         (c) In abatement—shows declaration improperly drawn—does not deny right of action itself.
      (2) Peremptory—in bar of the action—denies right of action altogether.

(a) Traverse—denies all or some *essential* part of the averments of fact in the declaration. Tender of issue of fact (which plaintiff must accept or *demur* to the traverse as insufficient in law), which raises an *issue in law* which is necessarily accepted.

(b) Confession and avoidance—admits facts of declaration but alleges new facts which obviate or repel their legal effect.

At this point if the defendant has *demurred* or *pleaded by way of traverse* the parties are now *at issue* either on the law or on the facts involved. If the defendant take either of the other possibilities—a *dilatory plea* or a *plea of way of confession and avoidance*, then the

3. Plaintiff answers:

a. Demurrer—tender *issue in law* as above,

b. Replication,

(1) Traverse—tender *issue of fact* as above,

(2) Confession and avoidance.

"If the replication be by way of *traverse*, it is necessary (as in the case of the plea) that it should *tender issue*. So, if the plaintiff *demur*, an issue in law is necessarily tendered; and, in either case, the ultimate result is a *joinder in issue;* upon the same principles as above explained with respect to the plea. But if the replication be in *confession and avoidance*, the defendant may then, in his turn, either *demur*, —or, by a *pleading*, *traverse*, or *confess and avoid*, its allegations. If such pleading take place, it is called *the rejoinder*.

"In the same manner, and subject to the same law of proceeding, viz., that of *demurring*, or *traversing*, or *pleading in confession and avoidance*, is conducted all the subsequent altercation, to which the nature of the case may lead; and the order and denominations of the alternate *allegations of fact*

(or *pleadings*) throughout the whole series, are as follows:— *declaration, plea, replication, rejoinder, surrejoinder, rebutter and surrebutter.* After the surrebutter, the pleadings have no distinctive names; for beyond that stage they are very seldom found to extend.

"To whatever length of series the pleadings may happen to lead, it is obvious that by adherence to the plan here described, one of the parties must at some period of the process, more or less remote, be brought either to *demur* or to *traverse;* for, as no case can involve an inexhaustible store of new relevant matter, there must somewhere be a limit to pleading in the way of *confession and avoidance.* . . .

"As the parties will at length arrive at demurrer or traverse, so, whenever a *traverse* is at length produced, it comprises a *tender of issue* (as in the above examples); and a *demurrer* also necessarily involves a tender of issue; the consequence of which is, in either case, a *joinder in issue,* exactly upon the same principle as above explained with respect to the plea; so that the parties arrive *at issue,* after a longer series of pleadings, precisely in the same manner as when the process terminates at the earliest possible state. Such is, in a general view, the nature of the process of pleading, and the manner of coming to issue." [1]

[1] *Stephen on Pleading,* Williston's edition, pp. 50–54.

## APPENDIX C

### JUDGES' BALLOT WITH INSTRUCTIONS

The following instructions to judges should be printed or typewritten on the ballot given to each judge at the opening of the debate, and a copy of this should be sent to each one with the invitation to act as judge.

THE ANNUAL INTER-COLLEGIATE DEBATE. UNIVERSITY OF , AFFIRMATIVE. UNIVERSITY OF , NEGATIVE.

FRIDAY, MARCH , 19 .

RESOLVED: etc.

#### INSTRUCTIONS

To the Judge:

You are called here as one who understands debating, to give an opinion as to the comparative ability in debate shown by the teams taking part in this contest. Your question is which team shows a higher average skill in debating—not simply which presents the stronger evidence, nor which side you agree with either before or after the debate. Ability in debate, or skill in debate, covers knowledge of available material, analysis, reasoning, rhetoric, proper debate tactics, and ability to talk to an audience. You are the sole judge as to what weight shall be given to these various elements. Copies of these ballots are to be preserved for the guidance and instruction of the contestants and others who are to

follow them. Therefore in giving your reasons for your decision please be as specific as possible.

### Ballot

It is my decision that the debate should be awarded to the team for the following reasons:

(ample space should be left here on ballot.)

(*Signed*) Judge.

# APPENDIX D

## RULES FOR LEGAL BRIEF DRAWING

This very complete set of rules for legal brief drawing appears as an appendix to *Problems in Contracts*, [1] by Dean H. W. Ballantine of the University of Illinois Law School, formerly Professor of Law in the University of Wisconsin. A comparison of these rules with those given in chapter 10 will show the difference between legal brief drawing and brief drawing on general argumentation.

### Directions for Briefmaking

"The following twenty-one rules cover the work of drawing outline or skeleton briefs. Each rule here should be strictly observed. Students should memorize these rules as stated and should understand the reasons for them.

### General Rules

1. Divide the brief into three parts, *marked* respectively—introduction, argument, and conclusion.

2. Arrange the arguments in the brief in logical order in the form of headings and subheadings.

3. State each heading and subheading or argument in the form of assertions or propositions of fact or law, not of mere vague topics.

4. Let each heading and subheading or argument contain but a *single* assertion or proposition, in order to insure condensation and careful analysis.

5. Arrange every coördinate series of statements in order

[1] (Rochester, N. Y.: Lawyers Coöperative Publishing Co., 1916.)

of *climax*, unless this violates time order in expository matter or logical order in argumentative matter.

6. Indicate the relation between the headings and subheadings by means of margins, and letters, numbers, or other symbols.

7. Let no heading or subheading be marked with more than one symbol.

8. Indicate accurately all references, citations, and sources of information relied upon in the brief under the proper heading or subheading.

### Rules for Introduction

9. In the first part of the introduction give all the facts and information necessary for an understanding of the case. Distinguish the main issues by briefly stating admitted matter, excluding irrelevant matter, and contrasting the principal contentions of the one side with those of the other; thus showing the essential points to be established or overthrown.

10. At the end of the introduction make a terse statement of the precise issues presented by the case which the court must decide, and of the divisions and order in which they will be taken up.

11. Let the introduction contain only statements, the truth of which must be acknowledged by both sides for the purposes of the argument.

### Rules for Argument

12. Let the argument proper state the gist of all the reasons and authorities relied upon in the case.

13. In the argument let each main heading read as an affirmation of or as a reason for one of the issues to be established.

14. Let each subheading, or series of subheadings, read as a reason for the truth of the heading above it.

15. Support the main propositions or arguments by enough subordinate propositions to give the various reasons for the

main contentions, and in like manner support the subordinate propositions, if there are further points to be made.

16. Cite cases and authorities under the specific subordinate propositions which they sustain.

17. Use great care to make the propositions of the argument as concise, cogent, and pointed as possible. Avoid glittering generalities, platitudes, repetitions, and trite or sweeping assertions, which carry no thought or conviction.

18. A careful analysis and a logical argument of a case on principle, supported by two or three strong cases on the essential points is the way to win. Beware of too many cases or of any case which does not hit the nail on the head. The court has only limited time and patience.

19. Objections to be refuted should be dealt with as they arise. Hold your opponent strictly to the proof of his case.

20. In phrasing refutation the heading should state clearly the argument to be answered.

### Rule for Conclusion

21. The conclusion should contain a summary of the essential points of the argument.

"Note: The skeleton brief here suggested is intended as the mere iron framework or outline guide of a complete written or oral argument. The training in the observance of these rules will compel searching analysis, conciseness, thoroughness and a clear order and method of treatment which should appeal at once to any court. The complete argument may be readily built up upon this framework, with such attributes of style, emphasis, elaboration, illustration, and persuasion as may be appropriate.

"I am indebted for the substance of several of these rules to a forthcoming work on Argumentation by my colleague, Professor J. M. O'Neill. For illustrations of outline briefs see also W. T. Foster, *Argumentation and Debating*, Chap. 9, and App. IV and V, pp. 359, 371."

## APPENDIX E. 1

### MATERIAL FOR A SHORT BRIEF

### A Neglected Industry

(From the Boston Transcript)

The value of the goat as a domestic animal and a beneficial factor in the agricultural industry has at various times been discussed in these columns. Our belief in that value has been based on the habits of the animal and its natural adaptation to the conditions to be found in our farming sections, especially in New England. According to our Washington despatches, already published, a similar condition has been borne in upon the minds of some of our federal authorities. The bureau of statistics of the department of commerce and labor shows that we have been importing goat skins from various countries during the past decade at the rate of fifty millions a year. This shows the extent of the market for one of the items in the goat's potential value.

But the department has also been impressed by consular testimony with respect to the worth of the flesh as an addition to the meat supply of the country and suggests that for such a purpose alone goat raising would be a profitable industry. We are somewhat inclined to doubt that, but the main question does not depend upon proof of it. The meat is certainly wholesome. We have scriptural authority and precedent for that and doubtless it would be popular were its use more common. But why not, suggests the bureau, keep within our own country the twenty-five millions that we pay for the skins alone? Then there are the fleeces, for which there is a steady and growing demand. To grow these at their best no doubt requires care, as it does to produce almost anything of good quality, but there is warrant for exercising it in the fact that it pays.

Thus in a direct inventory we find meat for the eater, fleeces for raiment, and skins for shoes and other goods, with possibly a side line of very digestible milk for infants and invalids. But that is only a part and perhaps not the most important part of the case that can be made out in favor of the more general use of these too much neglected animals. The goat has been represented as having a fondness for tin cans and old junk of various kinds as articles of diet. This is giving him more credit or more criticism than he deserves. While his appetite is healthy and his digestion excellent, he is purely a vegetarian, though within that limitation he is very thorough. There is hardly a New England farm of average size on which a flock of goats could not be kept for nothing during seven or eight months in the year. From the time that the leaves appear on the trees and undergrowth in the spring until they depart in the fall, the goat will take care of himself if let alone.

It is for this reason that he is able to render a great service. Not only does he live off the country but in doing so he enriches instead of impoverishes it He is a browser rather than a grazer, preferring leaves to grass, and supports abounding life on what the farmer not only does not need but does not want. He forces back the constantly invading army of brush and if the flock is large enough it will clean out growths about the trees of the forest and improve conditions generally. They are natural foresters, a fact that has been recognized by those in charge of some of the western reserves, where they have been kept to eat fire lanes for long distances. If goats were stationed in sufficient numbers in the woodlands of Massachusetts we should not suffer from forest fires to the extent that has been our portion for some years past, because they would leave little for the fire to feed upon. What other servants can the farmer find that will work diligently through the productive season to improve his land, protect his forests, and keep themselves?

## APPENDIX E. 2

### MATERIAL FOR A LONG BRIEF

### SAMUEL W. MCCALL ON RECIPROCITY WITH CANADA
### HOUSE OF REPRESENTATIVES, FRIDAY, APRIL 21, 1911

(From the Congressional Record)

Mr. Chairman: In arising to close the debate in behalf of those members upon this side of the House who believe in the policy of the present bill, I desire to say that I think the House is to be congratulated upon the illuminating discussion to which it has had an opportunity to listen. The speeches delivered upon both sides of the question and upon both sides of the aisle have been worthy of the subject—a subject which, as was said by the gentleman from Illinois yesterday, is one of the most important ever before the American Congress. The bill has important international aspects and features of an economic character that call for the careful consideration of every member. It does not make an appeal for the use of the heroics of the hustings, but for the best thought each one of us is capable of giving it.

I listened with great interest to the speech of the gentleman from Maine [Mr. Hinds]—the first speech that he has had an opportunity to deliver in this House, of which he has been almost the directing agency for nearly twenty years. It was a speech beautiful in structure, such a speech as is made out of a full mind, and it was entirely worthy of the subject which he discussed. I say that, although I profoundly disbelieve in the conclusions which he maintained. I regretted to notice, however, the pessimistic tone that the gentleman adopted with reference to the American farmer. But it is not strange that, having been in a position where for twenty

years he could not escape from listening to the debates, he should have caught the minor key in which the praises of the farmer are usually sung upon this floor.

According to his eulogists here, the American farmer is a very serious minded individual, with his wife and numerous progeny gathered about him—and I observe that these eulogists usually bless him with a bountiful offspring—desperately and with great solemnity endeavoring to cling to a precarious existence. These orators lament over his rugged qualities, they almost brood over his virtues, and as for his faults, he has none, for he is a being to whom it is impossible to sin.

Mr. Chairman, I have had some experience with the American farmer. I have seen him in his native lair. It was my great good fortune to live for a number of years in my boyhood upon one of those glorious farms in northwestern Illinois —a $200-an-acre farm, as the gentleman from Indiana called it—one of those prairie farms, not the flat farms that you have farther to the west, but where you have the billows of the prairie tumbling about you. One of those farms which, when they are under cultivation, present a scene of pastoral beauty and of fertility such as can scarcely be found anywhere in the world. I have seen farmers actually burn corn for fuel, as has been so dramatically stated in this debate. Why, it has been presented here, as if it showed the destitution of the American farmer and his straitened circumstances that he actually burned corn for fuel. I have seen him burn corn. Sometimes he would overcrop with one grain and could not sell it profitably, but he was pretty sure to get even on some other grain; and instead of brooding over the burning of corn, more probably the farmer would sit cheerily smoking his pipe in the light of its blazing fire and his sons would rejoice that they did not have to chop wood.

The American farmer is not the sad-eyed monstrosity, always staring destiny in the face, that we have had painted here. The farmers, as I knew them, were a prosperous, independent, and happy race of men. I have known many

farmers, and I have known some men even on Wall Street, and I have made up my mind that they both belong to the same race, and that there is about as much human nature in the one class as in the other. I have sometimes thought that if the numbers were reversed and that if we had 5,000,000 voters on Wall Street and only a few hundred farmers, our statesmen would sing the homely virtues of J. P. Morgan and his crew and would bestow upon them some of these lugubrious eulogiums of which the American farmer has been so long the patient victim. And their worst enemy could hardly wish them a harder fate.

Now, it is argued against this bill—and I do not propose to weary the House with a repetition of the statistics we have heard—that just as the opening up of the Western States depressed agriculture in New England so the opening up of our markets to Canadian produce will have the same effect upon the agriculture of the country, and especially upon the agriculture of the West. There is no similarity whatever between the two cases. From 1870 to 1890, you will remember, we built railroads simply for the sake of building railroads. We threw, sometimes in a single year, many thousands of miles of railroad across the most fertile land on the face of the globe, land that was uninhabited. Railroads went in advance of civilization, and in order to get business they sent their agents all over Europe stimulating immigration; and it so happened that the financial and commercial depression from 1873 to 1878 threw hundreds of thousands of men out of employment in the East, and they found places upon the western farms. We had brought under cultivation, and their produce thrown upon our markets almost, as it were, in a day, great and fertile states of this Union, and in order to permit the farmers to live, the railroads gave them unnaturally low rates to the markets of the country and to those abroad.

It was said by Prof. Meyer that a bushel of wheat could be carried more cheaply from Chicago to Liverpool than from

Budapest to Prague, a distance in a straight line of only 175 miles. A man in Illinois could get into the markets of Boston more cheaply than a man who lived in Worcester County in Massachusetts. The result of this abnormally low rate was practically to transport the prairies of the West into the suburbs of New York and Boston. And, of course, agriculture was depressed in New England, not merely from that circumstance, but because of the conditions there which were adverse to agriculture as it was then conducted.

I saw agriculture not only in the West, but when I was a young boy my father sent me to New England to school, and I had an opportunity there to see how they farmed in New England. In the West a farmer could turn a furrow for a mile, if his farm went that far, without taking his hand from the plow: but in New England the farmer would urge his horses, and more often his oxen, for a few feet and then would have to turn out for a stump or stone. He would try to select smooth little patches upon the hillside. While a New England hillside, with its alternation of little rye fields and cornfields and pasture and meadow and woodland, presents a very beautiful mosaic to the eye, it certainly is not favorable to agriculture. And it was inevitable that under the adverse natural conditions and with the antiquated methods which the New England farmers employed they could not compete with the rich and fertile prairie lands of the West.

Now, how is it with Canada? Why, there is, as I have said, no parallel between the two cases. Champlain laid the foundations of Port Royal and Quebec before the Pilgrims landed upon Plymouth Rock. That country is as old as this country.

For one hundred and fifty years it has been a part of the wealthiest empire in the world, and yet to-day it has less than 8,000,000 people, and instead of capitalists putting in their money, thrusting railroads across the cold fields of Canada, Canada has been compelled largely to build her railroads out of her own treasury, and although she has given enormous

land grants and vast sums of money she to-day has only about 25,000 miles of railroads in the whole Dominion.

Canada has not the slightest advantage over the West in fertility or in aptitude for agriculture. The advantage is all the other way. The part of Canada gentlemen fear is a country of a single crop. A single crop will sack the soil. The farms in the Canadian northwest are scarcely habitable for a good many months in the year. Agriculture in our West can be carried on under far better conditions than there.

The lands there are not so cheap as they were in the West when it was settled. Rich prairie land sold in the United States for $5 and less an acre. I happen to know a case where a very intelligent business man of New England desired to buy a half section of unbroken land for each of his two sons. He bought it nearly two years ago, selecting it with great judgment and care, and he was compelled to pay the Canadian Pacific Railroad Co. $25 an acre, and another young man bought some land two weeks afterwards and it had risen to $30 an acre; and that prairie land has since been going up in price. These young gentlemen who started out to build their fortunes found that they had to pay a very high price for their horses, had to hire a man to look after their farms in the winter, began with a drought and a poor crop, and at the present time they still have their fortunes to acquire.

But suppose our young men do go to Canada, and many of them have already gone there. Why, the state of Iowa, that wonderful agricultural state, during the last decade lost in population. Does that mean that it declined in prosperity? Not at all. It is one of the greatest, and is destined to continue to be one of the greatest, and richest agricultural regions in the world. But young men have gone from Iowa because they could get more land in Canada than at home. The land of their own state was all taken up. Suppose they shall found upon the eastern slopes of the Canadian Rockies a newer and a fairer Iowa? Who is there who will not wish them God-

speed? They go there to win their fortunes, just as their fathers made their fortunes, by selling in the open markets of the world; and if they deserve to prosper and if the country is so favorable to agriculture, they will repeat the prosperity of their fathers.

The gentleman from Maine [Mr. Hinds], in the course of his speech, alluded to the agricultural conditions in Germany, and to the fact that Bismarck established agricultural duties there. I fancy that Bismarck did not establish agricultural duties so much for the sake of agriculture as to placate the powerful agrarian element and establish generally in Germany the policy of protection. But they have had, ever since the time of Bismarck, high protection upon agricultural products in Germany.

Let us see what the effect has been. There is this singular law, pointed out by Prof. Fawcett, of Cambridge University, England, that while in a great many articles of common use the demand does not increase the price, yet in the case of agricultural products the demand does increase the price, and he reached that conclusion upon a line of argument something like this:

A man may be producing manufactures of cotton or flax or some other article in which labor is the chief element of production, and if there is a demand for twice as many goods of the kind he makes, he doubles the size of his factory and can manufacture even more cheaply than he could before. But in a country like Germany, which normally supports its population, when you come to increase that population under the stimulus of protection, by building up great manufacturing cities and making a strain upon the resources of the soil, there is a greater demand for agricultural produce than the farmer normally has raised. Now, there are in every country some lands that ordinarily are not cultivated becauses prices do not make it profitable to cultivate them. They are called valueless, but when you raise the price of farm products it pays to till the best of these lands, and the higher

the price the poorer the land it will pay to cultivate. There is an "oscillating margin," upon which you may or may not be able profitably to raise farm produce, according as farm produce is high or low. The man who cultivates must get prices that will warrant him in doing so. These prices enable the man who has fertile land to make still more money, and the increased demand for agricultural produce drives people into the cultivation of lands previously unprofitable, and in order to induce them to do it they must of necessity be paid a higher price for their produce.

Now, let us see what has happened in Germany, which relatively to us has a very large population per square mile and which, with a growing population, has had high protection in agriculture for a great many years. The growing demand for foodstuffs has greatly increased prices. I noticed the other day an address made by the chancellor of the German Empire, who is a rigid and uncompromising protectionist. At a meeting of the National Society of Agriculture he said:

I am especially grateful to the president—

That is, the president of that society—

for his frank admission that the prices of many farm products have in the past year reached an unhealthy height, burdening in a deplorable manner a great number of people.

That comes from the chancellor of the German Empire with reference to this artificial increase in the price of food. He declares that it burdens in a deplorable manner a great number of people.

Let us look further at the situation in Germany. The agrarian element there, who own the land, are a very powerful element. They not only enjoy high and unnatural prices for the common articles of food, but they have great power in directing the German Empire. As you all know the state owns the railroads. At a certain time of the year the sugar-

bearing lands along the Elbe make special demands for agricultural labor, and so it used to be the custom at that time of the year for laborers living along the Oder to go and help in the harvest of these sugar-bearing lands, where they would get better wages, and then when the harvesting was over to come back again. The German railroads gave them excursion rates. Those agrarians who lived along the Oder made a complaint to the German Government in effect that they had a natural right to employ the labor of their locality, and that for the Government to give these laborers excursion rates made it necessary for the agrarians to pay higher wages to their men; and although the minister of finance admitted that it was a good thing for the German laborer, although it gave him more money temporarily, although it enabled an untraveled class to get away from home and to see another part of the Empire and have their outlook broadened, yet the Government yielded to the demand of the agrarian element and refused longer to sell the excursion tickets.

The gentleman from Maine [Mr. Hinds] alluded to the law called the Gregory King law, by which he showed that as the supply of an article of common use increased at an arithmetical ratio, the price decreased at practically a geometrical ratio.

That is, you increase the surplus of a necessary article and you depress the price out of all proportion to the amount by which you increase the surplus. It readily occurred to me that there is a reverse to that law, and the other side is illustrated in the case of Germany. If you decrease below the natural demand the supply of an article of common use in an arithmetical ratio, you increase the price of that article in practically a geometrical ratio. I think there is no escape from that conclusion.

Then about the static equilibrium of which he spoke, in nations between agriculture and manufactures. It is a very good thing if you can secure the equilibrium naturally, but it is a very bad thing to pay too much for it. Suppose there is a

nation that has coal mines, iron mines, water powers, great facilities for manufacturing, and a poor soil. Is it wise for her to take her people from the operation of the great natural resources and facilities for manufacturing with which she has been blessed and put them to the cultivation of an infertile soil? Is it not better for them to work the mines, to build up manufactures, and exchange their products with some other nation that does not have these resources but has a fertile soil?

Carry it out to extremes on this theory and every household should maintain an equilibrium, and each should have its own blacksmith, its own shoemaker, and its own spinner. The law of modern trade is for men and nations to do the things they are best fitted to do and to exchange products with each other.

I paid close attention to the argument of the gentleman from Maine, because I have a high respect for him and because I was greatly attracted by his speech. There is one other thing to which I wish to call attention. He referred to the British Tariff Commission, and quoted them as in favor, practically, of reënacting the corn laws. That would strike an ordinary man as an admission almost from the Cobden Club itself in favor of the policy which the gentleman from Maine was advocating. I thought from its name, as very likely the gentleman from Maine thought, that it must be a royal commission, or if not a royal commission it must be a sort of government commission. I have looked it up, and in *Hazell's Annual*, which tells you briefly everything about the Empire, you will find the British Tariff Commission tabulated with other similar organizations. On the one side it frankly states the organizations against Mr. Chamberlain's proposal, which was to tax food coming into England, and there we have the Free Trade League and the Cobden Club and others. In the other column they have catalogued the organizations for Mr. Chamberlain's proposal, and among them is the tariff commission, established by Joseph Cham-

berlain in the beginning of 1904 in order to push along his particular ideas. That is practically the protective-tariff league of the British Empire, and if you read the names you will find there a collection of gentlemen, some of them very comfortable manufacturers, who are deeply concerned, as are the manufacturers in this country, for the poor farmer.

I could construct a tariff commission like that here, and it would be a commission of more eminent ability. I would put the gentleman from Illinois [Mr. Cannon], my distinguished, and I may say my illustrious, friend at the head; I would put the gentleman from Pennsylvania [Mr. Dalzell] upon it; I would give a place upon it to the gentleman from Michigan [Mr. Fordney]; and then I would add to it the secretary of the American Protective Tariff League and of the Home Market Club of Massachusetts. And we should have a fine collection of gentlemen, of great ability and great knowledge; but if I wanted to hold forth anything they said in favor of protection as an admission of an ancient enemy to protection I think some of our narrow-minded partisans on the other side would reserve the right to object.

This whole discussion has revolved about the price of wheat. But first I wish to say a word about the price of land. I do not think the effect of this legislation is going to be to decrease the price of land, but to keep it from going up too rapidly in value. So far as competition with Canada is concerned, if North Dakota, which has a longer summer and a shorter winter than Canada, can be a part of the same agricultural domain and can compete with Kansas and Iowa and Oklahoma and those wonderfully rich lands toward the South, lands as fertile as those in Campania, where, as Virgil said—

> Summer borrows months beyond her own;
> Twice the teeming flocks are fruitful,
> Twice the laden orchards groan—

if North Dakota can compete with lands like those, what

has she to fear from the more frosty Alberta? What has Minnesota to fear from Manitoba when she can prosper side by side with Iowa and Nebraska?

The debate has been chiefly about the farmer, and I have wondered whether he was really so much agitated over this bill as we have been led to believe. I have wondered, since in 1865 patriotism was the pretext which certain great interests employed to terminate the Elgin treaty, whether after all there was not something masked behind the farmer here. People have been industriously sending telegrams to members. Evidently there has been a great campaign of education, and the suspicion that the farmer was being put where he did not deserve to be has reminded me of that old fort near Panama which was captured from the Spaniards by Morgan and his buccaneers, and it is said the way they captured it was to drive in advance of their charging columns the nuns and the sisters of charity. The Spaniards did not wish to fire upon these good women and so the buccaneers captured the fortress. I do not wish to say that there have been any other gentlemen behind the American farmer, but I have had just a suspicion that there were some interests behind him pushing him to the front to take the brunt of the fire or to silence it.

But this whole question revolves about wheat, and it seems to me that we can decide it upon wheat alone. I think there is no doubt that in any country which exports a considerable surplus of wheat the price is fixed in the market that takes the surplus. We have been for many years one of the great granaries of the world, selling in the open market, and our wheat has sold on a parity and is selling to-day on a parity, freights being adjusted, with the wheat of Argentina, of Australia, of Canada, of India, and Russia. Although it would seem hardly necessary to quote an authority upon so clear a proposition, I have here Prof. Dondlinger's interesting book on wheat. He has evidently written with great sympathy for the farmer, and he lays down this proposition:

As soon as a country has a surplus for export and receives more for exported wheat than the home price, plus the exporting, the export will increase, the home price will rise, production will increase, and the price is no longer fixed within the country. The country which buys the export may thus fix the price of wheat for the country which produces it. . . . It is as a consumer of the world surplus that England has held a position of such commanding importance in fixing the price of wheat.

Gentlemen present here some discrepancies in the price of wheat upon one side of the line and the other. I can find similar discrepancies between neighboring towns in South Dakota. It depends upon elevator facilities, it depends upon competition in buying, and you can find those differences in towns in the same state. They are simply little backward whirls and eddies, that you will find in the most rapid onrushing stream. They are simply the exceptions that prove the rule.

The man in North Dakota does not compete with the man across the line in Manitoba directly, but he competes with him 4,000 miles away in the Liverpool market. We have an exportable surplus of something like 100,000,000 bushels a year, and Canada has an exportable surplus of, perhaps, half that amount, and those surpluses are both taken by the Liverpool market. It makes no difference whether the wheat is swept from Canadian or American threshing floors, when it goes to Liverpool, according to its quality, one kind brings the same price as the other. And so we witness this spectacle on account of the high tariff wall; we see these two broad, golden rivers of wheat flowing in parallel lines upon either side of the boundary and seeking the level of a common market. It seems to me quite beyond our capacity to understand that any other law can operate where we export such an enormous volume of this necessary article, not controlled by a trust, than that the price is fixed in the country which takes the surplus.

Let us take the reverse of that, and we have an illustration to prove the truth of this rule. Take sugar. We do not produce as much sugar as we consume. We consume some 3,500,000 tons every year, and we need to import a great deal from the outside world. Some years ago we had before this House a proposition to give a preferential duty of 20 per cent to Cuban sugar over other sugars. It was alleged here that the Cubans, for whom we designed this arrangement, would get no benefit at all, but that it would go to the Sugar Trust, and what do we see? We see precisely the result that the advocates of that reciprocity bill pointed out at that time.

The sugar market of the world is Hamburg. The price of sugar in New York is the Hamburg price plus the freight across the ocean plus the full duty into New York. And the Cuban planters, providing they show reasonable intelligence and do not glut the market at a given time, can reckon on the Hamburg price with the freight and full duty added. Since we have to make up our deficiency in the production of sugar by large importations, our home price is the world's —or Hamburg—price with the duty added, and there is a parity in price between Hamburg and Cuba and Sumatra when the differences in duties and freights are considered.

I read this morning in the *New York Sun* an article upon sugar written, I believe, by Mr. Robinson, one of the most accomplished economic writers upon the American press. He took importations from Sumatra and from some other countries and he carried out the prices into thousandths, and then an importation from Cuba, which had a preferential duty. When they were finally landed in New York they all appeared at precisely the same price, each paying its freight and particular duty. The price is adjusted, although I am not quoting him as an authority upon that, with reference to the Hamburg price.

What is going to happen to wheat if this bill passes? Gentlemen say, if the effect is not to decrease the price of

bread, why do we want to pass the bill, and if it is going to decrease the price of bread, it will injure the American farmer, and they repeat this very ancient tariff riddle. I will tell you what I think will happen. We are going to reach just the same condition in regard to wheat as we are in to-day in regard to sugar. When we cease to raise as much as we consume, and when we shall have to bring wheat in from other nations for our own consumption, then we shall see the law I have been talking about illustrated from the reverse side.

Instead of our exporting at the world's price to Liverpool, paying our freight, we shall buy at the world's price at Liverpool and pay in addition the freight and the cost of overcoming any other obstacles in order to get into our own market; and when you reach that point the tariff for the first time—this tariff that has looked so magnificent upon the statute books to the American farmer—will become operative to increase the price of wheat above the world's price. Now, is there any American farmer who would desire to add to the price he is getting in Liverpool 25 cents a bushel of tariff plus the freight rate from Liverpool? He has prospered on wheat growing on the basis of prices in the markets of the world. Do you imagine that when the time of our scarcity comes and when we are not raising as much as we consume that the American farmer will desire to have this price artificially raised in order that he may make more money? He certainly will make as much then if the tariff is not on as he does now.

A great deal has been said about the Elgin treaty. It has been argued that it was unfavorable to the United States. Let me call your attention to this circumstance, that in 1850 the trade going both ways between Canada and the United States only amounted to about $5,000,000 a year. This treaty was put in force in 1855 and remained in force for eleven years, and yet in that time it covered nearly a half billion of trade between the two countries. Why, it practi-

cally created trade between Canada and the United States, and Canada for a generation after we abrogated that treaty stood in our antechambers asking that we make another reciprocity arrangement with her. She continued to do so for thirty years, until at last Sir Wilfrid Laurier said, "No more pilgrimages to Washington."

Sir John Macdonald made it the fundamental policy of his party to have reciprocity with the United States and, at the same time, incidental protection. And when he came into power, about 1880, for, I think, the second or third time, he established the policy of protection for Canada and attempted to secure a reciprocity treaty. That policy of protection had the effect of stimulating Canadian manufacture, and in 1893 Sir Wilfrid Laurier, the present prime minister, said that "If you give us Liberals power we will destroy protection, which is a sham and a delusion and a robbery," showing that there was complete reciprocity in political rhetoric and that he had gotten that "free of all duty" from the Democratic Party in the United States.

Sir Wilfrid Laurier three years afterwards was intrusted with power. He is a sound and sagacious statesman, and I wish to call the attention of my enthusiastic friends upon the other side of the aisle to the fact that he has done nothing whatever to reduce protective duties in Canada except simply to create the British preferential. And I trust that his sound sense and moderation will be imitated by gentlemen upon the other side if they ever have the responsibility of dealing with the tremendous industries of the United States.

I think it is not necessary to say anything upon the most-favored-nation aspect of this treaty. We heard a great deal about it when the question was discussed in the last Congress, and the fact that that objection has not been urged by gentlemen in the present debate is pretty conclusive evidence that there was no foundation whatever for their former contention. I think, also, the gentleman from Ohio [Mr. Howland] has finally disposed of the argument, or, rather, the objec-

tion, that we should not have reciprocity in competitive articles.

I am rather surprised to find gentlemen representing border states of the Union opposed to this treaty. A high-tariff wall, however beneficial it may be to a country as a whole, throws a very deep shadow. People can only trade upon one side of the wall. They are shut out from their neighbors upon the other side. If the men in North Dakota would look at this a little more broadly, they would see that it would be far better for their state, for the farmers there, to trade across the line and acquire farms across the line and not be upon the outer rim of the country where the circulation of the trade current is feeble, as is that of the blood in the extremities of the body. I would suggest that they should not want to continue to be the extremities of the body politic, but that they might more profitably wish to annex Canada industrially, so that they might trade and extend their farms to the north as well as to the south.

Now, it has been denied that the policy of reciprocity, such as this bill presents, is a Republican policy. We have had it shown in this debate that the administration of President Grant, who was a pretty good Republican and did not come from New England, negotiated a reciprocity treaty upon the lines of the Elgin treaty. We have seen that Garfield, afterwards President, was in favor of the Elgin treaty. We had it asserted upon the authority of Mr. Curtis that Mr. McKinley was in favor of the policy. Certainly the amendment proposed by Mr. Blaine tended strongly to show that he was in favor of the policy.

And now I want to quote from a very distinguished man, a man who was governor of a leading state and who has since succeeded a great statesman as the political leader of his state. I refer to Albert B. Cummins, who was at the time governor of Iowa. I am going to quote from a speech of Gov. Cummins, made to the Boston Merchants' Association on December 10, 1903. I will not read all of the extract,

because it is somewhat long, but I will read what he says in conclusion:

Suppose we could to-night add Canada, from ocean to ocean and from her southern line to the North Pole, to the territory of the United States, so that when some courageous American explorer plants the banner of the Republic upon the axis of the world and its beautiful folds fill with the air of the North it will proclaim the eternal sovereignty of the United States. . . . How many are there here or elsewhere who would look upon this accession of power and population upon land and lake and sea as a misfortune to our country or a blow inflicted upon her prosperity?

I go further and eliminate national pride. How many banks would fail on that account? How many factories would close because the Stars and Stripes were flying over this vast domain? What acre would be worth less? What man would be without work or receive less compensation? . . .

Mark you, I am not dreaming of annexation, nor am I advocating free trade with Canada, for the former is more remote than ever before, and the latter is wholly impracticable. I have used the figure only to show that we can safely draw nearer to our neighbor and safely enter upon the negotiation of a reciprocal treaty."

I commend that to the attention of some of our agricultural friends from the West.

Mr. Chairman, it appears from some of the arguments made in this House, and from some of the arguments that are advanced in Canada, that this bill is to be mutually destructive to the agriculture of both countries, and that the deplorable condition of the American farmer under it is only to be equaled by the wretched squalor which the Canadian farmer will have to face. As the gentleman from Minnesota [Mr. Nye] so eloquently said yesterday, this bill presents a great ethical question. It presents an enlightened policy.

The President of the United States is simply asking this country to obey the laws of nature, which no great nation can violate with impunity.

Here these two countries lie side by side for over 3,700 miles. The lines of trade naturally run north and south, and we are attempting to force them to run east and west.

And it is the policy of justice. Remember that during the last dozen years our balance of trade against Canada has been nearly $1,000,000,000. She is buying of us this very year more than $250,000,000 in value, and 70 per cent of that trade goes there absolutely free of duty. Her average duty against the goods that we send her is only half as much as the average duty that we impose against her; and of this you may be certain, that after this bill shall pass the average duty of the United States against Canada will still be higher than the average of the duties levied by Canada against the United States.

The President is recognizing the laws of nature. The fact that that country buys from us nearly twice as much as she does from all the other nations of the world shows most powerfully how the ties of nature are drawing us commercially together. It is not wise to try to float upstream. We should permit the laws of nature to work without obstruction, and they will work, for the benefit of both countries. The size of our planet is dwindling every year. The discovery of all of the lands of the world, the wonderful inventions of the last century, the railroad and the telephone and the telegraph make this world to-day as small, compared with the world of the time of Columbus, as one of Jupiter's satellites is as compared with Jupiter. We are rapidly growing smaller, and here is this great neighbor of ours that is industrially a part of the United States. I say it is wise for us to recognize that fact and to pass this bill. It does not go far enough, but it takes a long step in the right direction.

I regret that I have only three minutes more. It is argued

in effect by the gentleman from Wisconsin [Mr. Lenroot] in his very able speech:

Add this farmer's free list to this bill. Load it to the gunwales with amendments and sink it if you can.

Consider for a moment the sort of a measure this bill would become. Here is a proposition to carry out an international agreement. The first section of the act says that flour shall be admitted at a certain rate of duty from Canada when Canada shall admit flour at the same rate coming from this country, and the same thing with regard to meat and other articles.

The trade is carefully carried out in the first article. Then, in the fourth article, with contemptuous levity we say that all these things, coming from all the rest of the world, for which Canadian statesmen have paid a consideration to get a reduction of duty upon them, shall come into our markets free of duty. Webster said, "Politics should cease at the water's edge"; but this would be playing politics upon an international scale. It would treat with levity the negotiations between the Canadian commissioners and the President of the United States. It would attest, at the same time, their inability to make a bargain and the ability of the President of the United States to drive a hard bargain, because, without any consideration whatever, in a subsequent section, we freely give better terms to the rest of the world.

Now, Mr. Chairman, if I may have just two or three minutes more, the boundary line between these two countries stretches, as I have said, for 3,700 miles. There is no modern fort along that line. After the war of 1812, by the Rush-Bagehot treaty, we agreed to have no further armaments upon the Great Lakes, although two of the chief battles of that war had been fought upon them. Great cities, with billions of dollars of property, with fabulous wealth, have grown up along that boundary. They are not defended by a single gun, but there are no cities in all the world that are more safe, because they are fortified and guarded by the good

sense, the common interests, and the friendly sentiments of two great nations. We have forts, it is true, and guns along that line, but they are antiquated and the survivals of a time long past. And we have made the dreams of the poets come true for the boys wage mimic wars in the crumbling embrasures of the forts, the birds build their nests in the lips of the cannon, and little children play upon them and clasp their silent throats. We can just as safely dismantle the tariff forts between the two countries. Canada is one with us in sentiment. She is one with us in all the strongest ties that can draw nations together; and I trust that this side of the House will vie with that side of the House and support the President of the United States in the enlightened and civilized policy proposed by this bill.

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